

## Co-Facilitator's summary

### Third workshop on implementation of General Assembly resolution 73/333

7 July 2021

1. The meeting was opened by H.E. Ms. Saqlain Syedah, Vice Chair of the Committee of Permanent Representatives, High Commissioner and Permanent Representative of Pakistan.
2. Mr. Elliott Harris, Assistant Secretary-General for Economic Development and Chief Economist in the UN Department of Economic and Social Affairs, shared his reflections on the Addis Ababa Action Agenda ("Agenda"). Among others, Mr. Harris,
  - Emphasized the Agenda's creation of a coherent framework for financing sustainable development which includes concrete actions for Member States to undertake individually and collectively.
  - Noted the Agenda is supported by an intergovernmental follow-up process which has progressively advanced issues relating to climate and the environment, while annually reporting on and analyzing financing issues from more than sixty UN agencies and other international institutions.
  - Called attention to the role that interagency working groups can play in monitoring and implementing commitments, while expanding commitments to include the consideration of developing issues, such as action in the face of climate change and COVID-19.
  - Noted that in response to the growing demand for climate action, the Agenda called for integrated national financing frameworks (INFFs), a framework for financing national sustainable development priorities at the country level, while also helping countries to meet their nationally determined contributions.
  - Emphasized that scaling up private investment toward better alignment with sustainable development is key and drew attention to the critical roles private business and finance also play in mobilizing financial sources toward means of implementation through the Agenda and other private sector initiatives aligned with the Sustainable Development Agenda.
  - Recommended baseline criteria and standards to be established and monitored to ensure private sector activities are aligned with sustainable development while avoiding greenwashing.
3. In the ensuing dialogue between Mr. Harris and participants, delegations who took the floor, inter alia:
  - Asked as to the alignment and coordination of multiple initiatives for funding.
  - Asked for further clarification of the comparative advantage of UNEP in facilitating the implementation of MEAs, and what Member States can do to support UNEP in this role.
  - Asked for suggestions in order to accelerate commitments in achieving the 2030 Agenda through Addis Ababa investment policies.
  - Asked whether there are areas in supporting Member State capacity building to implement the 2030 Agenda that have not been fully utilized, and if more attention should be paid to these areas.

In response, Mr. Harris,

- Noted that funding initiatives come from the public and private sector, but no centralized coordinating initiative, and therefore efforts to facilitate information exchange and identification of areas of overlap is ongoing.
  - Noted that the Agenda can serve to facilitate the mobilization of resources for implementation of international environmental law through general motivation of the actions identified in the Agenda.
  - Suggested three possible channels for new financing mechanisms into the Agenda, including: the annual ECOSOC financing developing forum; an ongoing initiative launched by the Secretary General entitled, “Financing for Development in the Context of COVID-19 and Beyond,” which is comprised of six cluster groups; and a range of individual initiatives organized by the private sector and non-governmental groups, which are monitored by the interagency task force and reported on annually in the “Financing for Sustainable Development” report.
  - Emphasized that environmental law should not be discussed and considered separate from other governance activities, clarifying that the implementation of environmental law, along with government action, must be consistent with international commitments under environmental conventions, which should be considered within national SDG strategies put in place and funded. In this regard, UNEP facilitates the understanding of environmental conventions, including in the overall SDG agenda, within the UN system and with Member States directly.
  - Noted that capacity building to implement the SDGs is in high demand by Member States, and therefore capacity building activities must be done through the prioritization of limited resources that are made available in order to provide support in the areas which would have the biggest impact of Member States to continue activities forward. Increasing coordination with other stakeholders was suggested.
  - Suggested three aspects for consideration relating to investment policies in achieving the 2030 Agenda: refocusing attention on the resource gap, noting that official development resources are insufficient and other elements of financing must be tapped; reinvigorating public domestic resource mobilization, including strengthening domestic tax administrations; utilizing private finance, which requires a conducive environment for private capital and finance to flow for investment, as well as investment projects to be at a larger scale.
4. Mr. Timothy Epp, Associate General Counsel of the U.S. Environmental Protection Agency, Office of General Counsel, shared with the meeting reflections on the Fifth Montevideo Programme for the Development and Periodic Review of Environmental Law and its contribution to international environmental law. Among others, Mr. Epp,
- Provided a brief history of the Montevideo Programme, which began in 1982, and has served to organize UNEP environmental law activities through ten-year intergovernmental programmes. The Programme emphasizes the role of law in expressing policy decisions to protect the environment and provides direction to diverse actors regarding actions needed to implement policy decisions relating to the environment.
  - Noted that the most recent iteration of the Programme is structurally different from previous programmes and Member State-driven through National Focal Points, seeking to create increased accountability of the Programme. The Programme is focused on the strengthening and implementation of environmental law at the national and subnational level.

- Presented the first priority area for action under the Programme, which is to, “support countries to strengthen, develop and implement appropriate legal instruments and frameworks and build related capacity to prevent, reduce and control air pollution.”
  - Presented the UNEP Law and Environment Assistance Programme (UNEP-LEAP), which was launched at the First Global Meeting of National Focal Points, and is the “digital backbone” of the Programme. It supports the Programme, Member States and other stakeholders through various means, including through: a clearing house mechanism for Member States and other stakeholders to directly request technical assistance; a knowledge repository providing access to relevant environmental news, legislation, jurisprudence, model laws, legislative toolkits and other guidance products and resources; provides access to e-learning courses on environmental law; and contact with National Focal Points.
  - Described the model law approach, a tool which has been previously successful in addressing lead pollution. The model law approach is highly effective in creating consistency across the globe in environmental law topics. The model law and support of UNEP in facilitating understanding of the model allows countries to adopt the entirety of the model or selective components thereof, as is most fitting in addressing different country needs. Ultimately, it was successful in setting a science-based policy standard for regulating 90 ppm of lead pollution internationally.
5. In the ensuing dialogue between Mr. Epp and participants, delegations who took the floor, inter alia:
- Asked whether the Montevideo Programme could provide added value in establishing a Global Framework for Environmental Governance and Law, becoming responsible for the capacity building, coordination, monitoring and review of progress made at national levels.
  - Asked how the Programme’s focus on the implementation of national and subnational environmental law can effectively address the scale of global and transboundary issues.
  - Asked how the Montevideo Programme relates to other areas of law, such as human rights, trade, investment and others which have been identified as nexus areas for environmental objectives to be integrated in order to strengthen environmental protection, including the implementation of these areas at the national and subnational level.

In his responses, Mr. Epp,

- Clarified that the vision of the Programme is to support the capacity building and strengthening of environmental rule of law at national and subnational levels, which will then strengthen environmental action at the global level.
- Emphasized that better and more effective implementation of existing principles of environmental law is needed at national and subnational levels, not a renegotiation of principles at the international level.
- Explained that the Programme can support and facilitate national environmental law in the same way UNEP has previously addressed the elimination of lead paint, by adopting a model law, conducting workshops on the structure of the model law with countries and local authorities, and facilitate and support countries ultimately by providing tools for a consistent approach to the regulation of lead paint. The Programme creates a mechanism for coordination amongst countries to adopt similar laws for strengthening of national and subnational laws, and to share best practices, techniques and training.

- Clarified that the model law approach is an exercise in giving individual countries consistent particularized approaches for tackling thematic issues, which include issues of regional and global interest. The Programme works in sharing effective model laws that produce results and we are working through a programme that focuses on each individual country because each individual country can retain some sovereignty and using its own approaches that are appropriate within its own culture, legal system and are able to, as a result, adopt more effective tools and approaches. However, there are some separate international processes for global issues where it would be inappropriate for the Montevideo Programme to duplicate work, such as on climate change.
  - Noted that the Programme works in coordination of global agreements, such as the Paris Agreement, while strengthening national and subnational tools to implement the international commitments which have been made. For example, by strengthening laws which control particular matters and pollution entering the atmosphere, the Programme will work to strengthen the infrastructure of countries which is necessary for them to meet commitments under the Paris Agreement.
  - Invited participants to consider the funding of the Programme through the lens of a resource which will create products effective in addressing particular problems. Donors will, hopefully, support the Programme in its funding for the next decade because the Programme can be measurable in terms of outcomes in countries over time, providing accountability and measurability.
  - Emphasized that strengthening implementation and enforcement of national and subnational laws is where the most impactful results will occur.
6. H.E. Mr. Ado Lohmus, Permanent Representative of Estonia moved to the second part of the workshop, referring to the guiding questions presented in the concept note. The first question was, “Which building blocks under titles ‘Environmental law is essential for the protection of our planet’ and ‘Accelerating and facilitating action and implementation at all levels’ expand current mandates or fall outside the scope of resolution 73/333?” As it was an informal workshop, there was no specific order for participants to contribute. Mr. Lohmus opened the floor.
- Many Member States generally supported the building blocks and requested that the workshop be mindful of the scope of the mandate of resolution 73/333, and not reopen discussions which have already taken place, particularly noting that substantive negotiations are difficult to hold online.
  - Many Member States noted the necessity to address the gap of implementation in international environmental law, including in relation to the 2030 Agenda.
  - Some Member States emphasized the importance of the political declaration’s role in enhancing the understanding of the implementation of international environmental law, including through capacity building. It was noted that the political declaration could be a call for Member States to enhance ambition and efforts at all levels of implementation relating to existing obligations and commitments under international environmental law.
  - Some Member States cautioned against including language which would duplicate work of existing legal instruments.
  - One Member State acknowledged the important role of the Montevideo Programme in the implementation of international environmental law, and recommended it be recognized in the section on implementation.

- One Member State called for inclusion of access to information, justice and public participation in the document.
- One Member State suggested that the means of implementation should be streamlined with the language on finance.
- One Member State asked that the references to ratification be moved to the section on environmental law, as opposed to the section on implementation where it is currently.
- One Member State called for a framing of the provisions on mobilization of means of implementation to be primarily directed towards developing countries, in accordance with the Convention on Biological Diversity. However, it also noted that any mention of financing should not go beyond existing statements of the working group on the role of public financing and multi-stakeholder initiatives, maintaining private sector financing to a supplementary role under existing MEA structures.
- One Member State asked for language which is more closely aligned with the wording of resolution 73/333, stating that references to 'agreed principles of international environmental law,' is too vague, and generally noted that clarity in language is necessary for effective efforts to protect the environment.
- Some Member States asked for specific reference in the text to some principles of international environmental law, including the principles of common but differentiated responsibility.
- One representative of civil society requested that the declaration include a political commitment to begin a process toward developing a global framework for environmental governance and law, which could be negotiated and made deliverable through UNEA.
- Some Member States noted the lack of clarity between States and domestic jurisdictions on the binding nature of principles of international environmental law.
- One Member State emphasized the importance of including means of implementation in the text to ensure the gap of implementation does not persist from the text.
- One Member State stated the importance of keeping paragraph 15 in the text of the declaration as an effective tool to facilitate compliance with international obligations. It further requested that there should be a reference to the Stockholm Declaration as well as the Rio Declaration.
- Acknowledging the general lack of clarity on principles of international environmental law, one Member State proposed text to be added to the building blocks, inviting States to engage in a process of coordination relating to the principles of international environmental law.
- One Member State called for the section on implementation to ensure relevant partnerships of sustainable development are strengthened while allowing for adequate and effective means of implementation, particularly noting the mobilization of new and additional, predictable financial resources to this effect.
- Some Member States recalled the existing internationally agreed commitments made by developed countries to assist developing countries in attainment of sustainable development objectives.
- One Member State acknowledged that achievement of international environmental action is underpinned by inclusion and strengthening of diverse stakeholder engagement and knowledge exchange between stakeholders.

- One Member State called for geographical balance in the secretariat of UNEP and in UNEA to be highlighted as an important component of effective implementation of international environmental law.
  - Highlighting the issue of implementation, one Member State suggested a textual change that the section on means of implementation be first in the declaration, and not last.
7. Mr. Lohmus stated his appreciation for the inputs of participants, noting the importance of informal exchanges. He reminded the group that the building blocks document is not the draft declaration, but a means to facilitate inputs on specific elements. He then asked for comments on the second question of the workshop, which was, “What are the benefits of international environmental law when it comes to protecting the environment?” Mr. Lohmus then opened the floor.
- Some Member States stated the importance of international environmental law as a tool for protecting the environment.
  - One representative of civil society called for an increase in international environmental laws to address the global and transboundary nature of many environmental problems. It further explained that international environmental laws can catalyse stronger national environmental laws and regulations, and can drive implementation, enforcement and compliance of national laws and regulations.
  - One representative of civil society suggested that international environmental law can be a tool to drive unification of international environmental principles, supporting the 2030 Agenda and promoting coordination of technical support needed to protect and restore the environment in global initiatives.
  - One representative of civil society highlighted the necessity of international environmental law, including its ability to support transnational environmental issues, such as climate change and biodiversity and the benefit of creating a global level playing field for Member States to agree on uniform environmental standards.
  - One representative of civil society called for the right to a healthy environment to be internationally recognized in order to increase the effectiveness of international environmental law.
  - One Member State acknowledged the contribution of international environmental law in improving the wellbeing of people as well as the planet.
  - One Member State cautioned against work to support the development of international environmental law which would affect other regimes of international law, regional regimes of environmental law, and existing environmental regimes which have been established through MEAs.
  - One Member State noted that steps to clarify and promote international environmental law principles should be taken only when there is broad international consensus.
  - One Member State called for specific action to strengthen international environmental law and its benefits, including: mainstreaming the environment in policy areas; encouraging ratification of MEAs; improving legal environmental frameworks at all levels; and increasing the knowledge and clarity of principles of international environmental law and their application, including through the ongoing work of the International Law Commission and the role of the Montevideo Programme.

8. Mr. Lohmus next asked for comments on the third question of the workshop, which was, “What are the opportunities that exist for making full use of the Montevideo Environmental Law Programme in order to increase Member States’ capacity building for implementing environmental law?” Mr. Lohmus then opened the floor.
- Some Member States generally noted the support available to countries under the Montevideo Programme, including through capacity building, expert information and exchange of information, and models on the successful implementation of environmental law.
  - Some Member States encouraged efforts to make full use of the Programme, including through its digital component, the LEAP platform, which was generally supported as an opportunity to share and exchange knowledge and seek guidance.
  - One Member State called for increased participation in the funding of the Programme, including through existing funding mechanisms and the newly suggested trust fund for the Programme.
  - One Member State called for increased attention from the Programme at a national level in strengthening institutional capacity building, facilitating education and training in the field of environmental law, and technical assistance.
  - One Member State suggested that the Montevideo Programme can play a role in supporting Member States to implement their international environmental obligations at a national level, to support the application of international environmental principles, and to establish national policies in assisting States toward improving national capacity buildings.
  - One representative of civil society encouraged the Member States which have not already appointed national focal points to do so. The representative also called for more attention to be drawn to the Programme itself and increase visibility of the Programme.
  - Some representatives of civil society requested that the secretariat of the Programme make efforts to receive inputs from members of civil society, experts, and other stakeholders in the process of implementing the Programme.
  - One Member State affirmed that the specific implementation and enforcement of environmental law depends fundamentally on efforts at the national level.
  - One Member State supported the opportunity to highlight and reaffirm the relevance of the Programme through the political declaration.
  - One representative of civil society, in noting the lack of committed financing for the Programme, called for action in addressing the gap of funding in international environmental processes through the declaration.
9. Mr. Lohmus next asked for comments on the fourth question of the workshop, which was, “What assessment tools, including environmental performance reviews, would help Member States in advancing the environmental agenda?” Mr. Lohmus then opened the floor.
- One Member State supported the role of assessment tools and transparency mechanisms under MEAs in providing a better understanding of the status of compliance and implementation, as well as providing a means of collective assessments for progress in the protection of the environment.
  - One Member State called for the endorsement of global outlook assessment processes in the political declaration, which assist country-driven needs assessments and actions by providing

information relating to the current state of environmental issues and potential means of implementing the environmental agenda, and achievement of the 2030 Agenda.

- One Member State recalled the UNEA resolution 4/22, requesting the Executive Director of UNEP to develop a monitoring mechanism for tracking and assessing implementation of UNEA resolutions and related activities.
  - One Member State called for the assessment systems referenced under “accelerating and facilitation action and implementation at all levels,” to be clearly described as systems established by UNEP, regional groups or groups of states, Member States, or other groups, as is fitting.
  - One representative of civil society noted the importance of assessment tools in providing guidance for upholding and achieving implementation of environmental law and policies at all levels.
  - Reiterating a call for a global environmental framework, one representative of civil society suggested that a cohesive review process, similar to the UPR, can be negotiated and established under UNEA to include voluntary reporting, reviews, and progress assessments.
  - Some representatives of civil society requested assessment measures which include major consultations of civil society.
  - One representative of civil society proposed that LEAP, through the Montevideo Programme, could develop an index monitoring the effective implementation of environmental law areas, facilitating knowledge exchange between Member States and other stakeholders.
  - Some Member States recalled that the substantive recommendations of the resolution do not contain any reference to assessment tools as a means to advance the environmental agenda, and asserted that inclusion of assessment tools in the draft building blocks is not within the scope of the mandate. It further noted that assessment tools already exist in MEAs, and the achievement of effective implementation of existing MEAs should be prioritized.
  - One Member State called for an assessment undertaken by UNEP in order to estimate the resources necessary to achieve implementation of existing MEAs, as well as identify gaps of implementation and resource allocation for MEAs.
  - One Member State noted that UNEP acts in a prominent role to bring together best practices, technology sharing, capacity building and access to financial resources. In a coordination role, the Member State proposed that UNEP could conduct an assessment of MEAs as to the extent of which financial obligations and legal commitments have been met.
  - One Member State called for a reference in the draft building blocks of undertaking an assessment of the overall means of implementation at this point in time.
10. Mr. Lohmus expressed encouragement for further discussions to understand and support the means of implementation through performance reviews, mapping the gaps of Member States capacity, and other assessment tools which could be used toward effective means of implementation. He then asked for comments on the fifth question of the workshop, which was, “How can Member States make optimal use of existing financial mechanisms and funds for implementing the international environmental law and improving the status of the global environment?” Mr. Lohmus then opened the floor.
- Some Member States requested that the political declaration not include references to specific mechanisms or financing targets, preferring language which reflects a collective commitment toward collaboration and delivery of effective mechanisms.



- Some Member States noted the essential component of financial resources in implementing international environmental law and highlighted the importance of financial mechanisms in supporting developing countries toward achieving environmental goals and commitments.
- Some Member States called for a scaling up of mixed-compositions of financial mechanisms, including increasing private finance and national level public finance.
- One Member State called for increased cooperation and local-driven identification of resources required for national priorities in discussing an increased predictability in the funding of UNEP.
- One Member State noted that existing financial obligations under MEAs and the Paris Agreement are not adequately fulfilled, putting adequate implementation of global environmental commitments at risk.
- One Member State recalled that investing in nature-based solutions could provide one-third of cost-effective climate mitigation solutions which also address biodiversity loss and build resilience of environmental solutions. It noted that existing financial mechanisms, such as the GEF, are capable in funding such solutions.
- One Member State called for a well-rounded approach to create cost effective crosscutting benefits of environmental action, suggesting that coordination actions in furtherance of the implementation of nature and non-nature-based solutions, private and public financing, and other cross-sectoral mechanisms is needed.
- One representative of civil society noted that financial mechanisms and funds are not the only instruments available to facilitate the implementation of international environmental laws and called for a discussion of a complementary combination of means of implementation, seeking to highlight other tools of implementation while addressing fragmentation.
- One representative of civil society highlighted that means of implementation are not successful in weak institutions and called for increased attention to monitoring and compliance measures.
- One Member State called for general scaling up of financing in developing countries through environmental funds, bilateral channels, and the mobilization of private capital in order to decrease reliance on funding from developed countries.
- One Member State called for increased capacity building at the national and subnational levels in best practices and technical assistance in applying funds adequately and cost-effectively to produce environmental action at scale.
- One Member State encouraged utilizing existing mechanisms to the extent possible in accordance with the Addis Ababa Agenda.
- One Member State called for improved coordination in the UN system and other international financial institutions in integrating private sector and industry involvement in complementing public finance efforts.
- One Member State proposed including a specific reference to a green recovery from COVID-19 in the text, particularly in connection with means of implementation and “green” stimulus packages.
- Some Member States emphasized that bridging existing financial gaps within the framework of MEAs should be prioritized, and the political declaration should aim to address implementation and existing financial gaps in its key messages.

- Some Member States reaffirmed previous discussions calling for the mobilization of funds to developing countries, which should be based on the principle of common but differentiated responsibilities.
11. Mr. Lohmus thanked participants for the discussion and invited participants to send written inputs. He informed the group that, based upon the inputs received, a draft declaration will be made available, after which additional consultations will be held.
  12. The Co-Facilitators closed the meeting.