

Excellency,

On behalf of H.E. Mr. Ola Elvestuen, President of the UN Environment Assembly and Minister of Climate and Environment of Norway, and H.E. Mr Fernando Coimbra, Chair of the Committee of Permanent Representatives and Permanent Representative of Brazil, I have the pleasure to share with you a letter and Questionnaire on the implementation of General Assembly resolution 73/333 entitled "Follow-up to the report of the ad hoc open-ended working group established pursuant to General Assembly resolution 72/277."

<https://undocs.org/en/A/RES/73/333>

The word template of the questionnaire has also been attached.

The written response to the questionnaire should be sent to unep-sgb@un.org by 27 January 2019.

Please accept, Excellency, the assurances of my highest consideration.

Jorge Laguna-Celis
Secretary of Governing Bodies
UN Environment Programme
Tel: +254 20 762 3411.
E-mail: Unep-sgb@un.org,
Twitter: twitter.com/jorgelaguna

Responses to the Questions in regards to strengthening International Environmental Legislation are provided by Rob Wheeler, Main Representative of the Global Ecovillage Network to the United Nations, and are included below. You can contact me at Rob.Wheeler@ecovillage.org.

QUESTIONNAIRE

Based upon the input received, the following guiding questions are set out below.

I. Guiding questions concerning the preparatory process

1. The outcome reads: “Forward these recommendations to UNEA for its consideration”.

a. Under which agenda item should UNEA 5 consider these recommendations?

b. One option being under the inclusion in the already established item 5 of the provisional agenda entitled “International environmental policy and governance issues” or by recommending the establishment of a new item?

While the strengthening of International Environmental Legislation and Law (IELL) certainly includes policy and governance issues, it should also address other elements as well such as how IELL can and should be included in Education for Sustainable Development and

in regards to environmental decision making; increasing public awareness about IELL; developing more participatory approaches in implementing environmental legislation and related sustainable development policy and means of implementation; etc. In addition, as already stated by a number of governments, item 5 already focuses on a number of important issue areas.

The recommendations relating to UNGA resolution 73/333 should thus be considered under its own dedicated item in order to ensure that all important matters be given their full standing, consideration, and inclusion at UNEA 5.

2. The outcome mandates: “to prepare, at its fifth session (...) a political declaration (...):

a. What level of detail should a text have in order to be considered by UNEA 5?

At least a second draft of the final declaration should be developed before UNEA 5 so that all that would be left to do in Nairobi would be to negotiate any final edits to come up with the agreed and approved text of the Declaration. Then the principal focus of UNEA 5 should instead be on developing action steps that can be taken in order to further strengthen and ensure that there is much more effective implementation of international environmental legislation and law (IELL).

b. When should the “preparation of a political declaration” begin and what should be the

recommended format, leadership and timeline of the preparatory process before UNEA 5?

The initial work needed to prepare the political declaration should begin as soon as possible. The general framework and wording for the document and discussion about what it ought to address and contain ought to be developed through inputs sent to the Co-Chairs and Secretariat, responses to the inputs again sent to the Co-Chairs and Secretariat, an initial Chair's report consolidating the input and suggestions; and then an on-line discussion process - all to take place over a fixed period of a number of months. This process could include a meeting of the Bureau and CPR at an appropriate time.

c. How can accredited stakeholders be involved, and member States without representation in Nairobi participate, in the process?

The type of process described above would include opportunities for all to participate fully in the process whether they have representatives in Nairobi or not. Everyone and all stakeholder groups that participate in either UN environmental and/or sustainable development processes should be invited to give input to this process whether they are accredited or not.

Substantive inputs from civil society could then be grouped accordingly with responses from those that are accredited organizations with UNEA in one place or section and those that are not in another.

I. Guiding questions related to the a “United Nations high-level meeting [...] in the context of the context of the commemoration of the creation of UNEP

3. The outcome speaks about “a United Nations high-level meeting, subject to voluntary funding, in the context of the commemoration of the creation of the United Nations Environment Programme by the United Nations Conference on the Human Environment (...)”.

a. What is meant by “a United Nations high-level meeting, subject to voluntary funding, in the context of the commemoration of the creation of the United Nations Environment Programme by the United Nations Conference on the Human Environment”?

Given the great progress that has been made on environmental issues and matters and how far we still have to go in this regards, it is essential that we take as much advantage of this 50th Year Anniversary as is possible. The commemoration should thus include a celebration of the Stockholm Conference, UNEP, and the UNEA, along with a sharing about progress that has and hasn't been made over the past 50 years, and the stating of a commitment to do everything possible to strengthen, implement and achieve the 600+ multilateral environmental agreements, environmentally related aspects of the SDGs, the Rio+20 Conventions and

Accords, and an augmented set of the Rio Principles. Attention could also focus on the goals and activities of the UN Decade on Ecosystem Restoration as well as how all of the above could and should be integrated in programs and curricula focusing on Education for Sustainable Development.

b. Who is expected to convene the UN high-level meeting? What should its format be?

Simultaneous meeting of the UNEA should be held in Nairobi, with a ceremonial meeting taking place in Stockholm, and a High Level Political Meeting in conjunction with the HLPF in New York linked by telecast and hosted by the President of the UNEA in Nairobi and the Chairs of the high level segments in Stockholm and New York. These meetings could thus take place in conjunction with the World Environment Day in June, the regular dates for the HLPF in July, and/or the UNGA in September.

The substantive session on improving and strengthening IELL should be held in Nairobi, with the HLPF session following a High Level segment or summit being held in New York to discuss how the new IELL provisions could be integrated with the SDGs in general and implemented as a part of SDG processes at a local to global level.

We are in a defining moment for the whole future of humanity and the integrity of the supporting ecosystems of planet Earth. It is thus essential that the actions needed

in order to support and enhance this required integrity, along with a holistic and integrated systems based approach to sustainable development, be significantly strengthened and implemented. The high-level meeting should thus be designed and carried out with this in mind and this should be one of its primary purposes and orientations.

The Heads of States should also be requested and prepared to announce what they both are already and also intend to do to better institute international environmental legislation and law. The substantive session which should take place before the associated HLPF session should focus on the development and establishment of specific programs and processes to support the strengthening of IELL.

I. Guiding questions regarding the content of the political declaration and the support by the UNEP Secretariat

4. The outcome also signals that the objective of the political declaration is “with a view to strengthening the implementation of international environmental law and international environmental governance, in line with paragraph 88 of the outcome document of the United Nations Conference on Sustainable Development, entitled ‘The future we want’”.

a. what ‘elements’ or ‘building blocks’ in the objectives guiding the recommendations and in the substantive

recommendations contained in the Annex to Resolution 73/333 could be identified for inclusion in the political declaration to achieve the overall objective of “strengthening the implementation of international environmental law and international environmental governance, in line with paragraph 88 of the outcome document of the United Nations Conference on Sustainable Development”?

All of the objectives are of course important but the most essential in regards to strengthening IELL include: upholding existing obligations and commitments; strengthening of implementation along with enforcement policies and processes; and supporting the full implementation of the 2030 Agenda as relates to IELL. The Declaration should identify and commit to taking specific actions to improve and strengthen what is being done in regards to each of these objectives.

b. How should the political declaration relate to the five objectives guiding the recommendations and to the thirteen substantive recommendations of the ad-hoc open-ended working group established pursuant to UN General Assembly resolution 72/277 and endorsed in UN General Assembly resolution 73/333?

I suggest the following in regards to the substantive recommendations:

The Declaration ought to announce that a specific means and mechanism is being created to support and assist all

governments in undertaking renewed efforts at all levels to enhance the implementation of existing obligations and commitments under international environmental law. Either some department within UNEP should be tasked with then assisting and supporting States in this regards or some other such body or office outside of UNEP should be designated to follow up accordingly.

The same department, office and/or body could also be tasked to support all States and specialized agencies to “mainstream environment into sectoral policies and programs at all levels, including into national development and sustainable development plans...”

In regards to recognizing the important role of discussing the principles of international environmental law, the Declaration should draw attention to the need to include the Rio Declaration of Principles in all ESD curricula and suggest that all UN Member States should base their sustainability policies and actions, as well as efforts to implement and achieve the SDGs, specifically on upholding and honoring the Rio Declaration and its contained and hopefully augmented principles. Further the Political Declaration ought to suggest that these same principles ought to serve as a mandate and guidelines for interpreting norms and intentions under IELL at the national and subsidiary levels and that administrative, congressional and judicial bodies ought to act accordingly.

In regards to promoting policy coherence across environmental instruments at all relevant levels and to

identifying and addressing implementation challenges in the regimes, the Political Declaration ought to refer to specific processes that are being developed in order to do so and call attention to the need of all UN Member States to act on the recommendations coming forth from such processes to follow through accordingly.

In regards to ratifying Multilateral Environmental Agreements and to effectively implementing them, the UNEA should develop an on-going process, under the coordination and leadership of UNEP, to encourage and support the UN Member States in ratifying and implementing all such agreements. Reports should be provided at each UNEA session focusing on the progress that is being made by UN Member States in this regards; and the Political Declaration should include the commitment that all parties will thus participate meaningfully in this endeavor and follow through accordingly.

And finally in regards to “encouraging the **active and meaningful engagement of all relevant stakeholders at all levels** in the different *fora* related to the implementation of international environment law and environment-related instruments”, it is thus essential that specific recommendations and examples of best practices in regards to stakeholder participation either be mentioned and included within the Political Declaration itself or included in an Annex, so that it is abundantly clear as to what UN Member States are committing to do in this regards. This may be particularly important in

regards to lower levels of government where awareness of international norms, practices and protocols are perhaps less apparent and understood and thus not as well carried out or used.

c. Should there be a substantive connection between the political declaration and the commemoration of the creation of the United Nations Environment Programme by the United Nations Conference on the Human Environment?

Yes, there should definitely be a substantive connection. UNEP and UNEA have been doing a terrific job at advancing environmental action and policy, even though substantially so much more is needed. As such UNEP should be given a leading role in supporting the UN Member States in significantly strengthening both national and international environmental legislation and law. And with this the connection between the commemoration of UNEP's 50th and the political declaration should include a primary focus on these activities and on efforts being made to strengthen IEL with the goal being to increase the commitment of the world community towards enhancing and strengthening IEL.

A few countries or RATHER governments, which are resisting the strengthening and enforcement of IEL, may resist making any direct connection between the Commemoration and the Declaration as they will understand that this would result in a more effective

process, the development of popular support and a more effective means of implementation. They should thus just be ignored; particularly as they are not likely to support or implement the goals of the Declaration in any case.

Let this be an agreement of those that are willing to strengthen, implement and enforce IEL rather than weaken it as a few governments have been trying to do on behalf of various special and vested interests. These others that have been trying to weaken environmental legislation are not likely to act on efforts to strengthen IELL anyway.

d. How should the political declaration be in line with paragraph 88 of the outcome document of the United Nations Conference on Sustainable Development?

While all of the suggestions regarding the elements of the Political Declaration that are included in the Bureau Report are important and should be included, the primary thrust and focus of the Political Declaration should be on identifying specific areas in which IELL needs to be significantly strengthened and implemented which could thus include and address such areas of IELL as the need to:

- Eliminate illegal logging
- Phase out the use of and impacts from toxic chemicals, substances and materials
- Eliminate plastic waste and pollution
- Transition to a fully circular economy

- Control and eliminate trans-border impacts on the natural environment
- Quit depleting the natural resource base and degrading the natural environment
- Quit disrupting and instead restore small and large scale natural water cycles and replenish and restore damaged watersheds using a bio-regional approach and perspective
- Etcetra

e. What kind of inputs should the Secretariat prepare in order to best assist member States in the preparation of the political declaration?

The Secretariat should work with key experts to put together a background paper or report on what is needed to, and could best, strengthen IEL.

A Secretary-General's report should be produced with the guidelines for the report to be determined coming from suggestions made by the Bureau and/or Secretariat followed by a response and discussion by UN Member States.

A White Paper suggesting pathways for strengthening IEL should be drafted in conjunction and in consultation with civil society, jurists, ICC, ICJ, academic think tanks and institutes, etc.