



Distr.: General
11 November 2020
Original: English



**United Nations
Environment Assembly of the
United Nations Environment
Programme**

**United Nations Environment Assembly of the
United Nations Environment Programme
Fifth session**

Nairobi (online), 22–26 February 2021*
Item 5 of the provisional agenda**

**International environmental policy and
governance issues**

**Availability of adequate funding to support implementation of
the fifth Programme for the Development and Periodic Review
of Environmental Law pursuant to resolution 4/20**

Report of the Executive Director

Introduction

1. Since 1982, the environmental law activities of the United Nations Environment Programme (UNEP) have been organized and coordinated through a series of 10-year programmes for the development and periodic review of environmental law, widely known as the Montevideo Programme. In its resolution 4/20, entitled “Fifth Programme for the Development and Periodic Review of Environmental Law (Montevideo Programme V): delivering for people and the planet”, the United Nations Environment Assembly of UNEP requested the Executive Director of UNEP, in consultation with the national focal points of the Montevideo Programme, to consider and report to the Environment Assembly at its fifth session on the availability of adequate funding to support the implementation of Montevideo Programme V and its activities in the field of environmental law. The present report is submitted in response to that request. Although as at 15 October 2020 there was no dedicated funding for UNEP to implement Montevideo Programme V, the report outlines progress in the implementation of resolution 4/20 and provides recommendations and suggested actions.

I. Progress in the implementation of resolution 4/20

2. In 2019, through resolution 4/20, the United Nations Environment Assembly adopted Montevideo Programme V.¹ The Programme, which began on 1 January 2020 and concludes on 31 December 2029, is an intergovernmental programme designed to guide the identification and implementation of priority actions in the field of environmental law to be undertaken by UNEP in collaboration with other relevant actors.

* In accordance with the decisions taken at the meeting of the Bureau of the United Nations Environment Assembly held on 8 October 2020 and at the joint meeting of the Bureaux of the United Nations Environment Assembly and the Committee of Permanent Representatives held on 1 December 2020, the fifth session of the Assembly is expected to adjourn on 23 February 2021 and resume as an in-person meeting in February 2022.

** UNEP/EA.5/1/Rev.1.

¹ UNEP/EA.4/19, annex.

3. Montevideo Programme V is aimed at promoting the development and implementation of environmental rule of law, strengthening the related capacity in countries, and contributing to the environmental dimension of the 2030 Agenda for Sustainable Development.² It has six core objectives and nine associated strategic activities.³ These are complemented by cross-cutting implementation guidelines, as well as institutional arrangements and monitoring, including outlines of the roles and responsibilities of (a) UNEP as the secretariat for Montevideo Programme V; (b) national focal points; and (c) the steering committee for implementation, to be designated at the global meeting of national focal points.⁴

4. Through its resolution 4/20, the Environment Assembly also (a) invited Member States that had not yet done so to designate national focal points for the Montevideo Programme, pursuant to Environment Assembly resolution 2/19; (b) requested the Executive Director to implement Montevideo Programme V through the programmes of work for the decade beginning in 2020, in a manner that strengthened the related capacity in Member States and contributed to the environmental dimension of the 2030 Agenda and was fully consistent with relevant medium-term strategies of UNEP; (c) requested the Executive Director, in consultation with the national focal points of the Montevideo Programme, to consider and report to the Environment Assembly at its fifth session on the availability of adequate funding to support the implementation of Montevideo Programme V and its activities in the field of environmental law; and (d) decided to review Montevideo Programme V by no later than 2025 and requested the Executive Director to provide a report on that review for consideration by the Environment Assembly.

5. While Montevideo Programme V officially began on 1 January 2020, substantive environmental law activities undertaken directly under the Programme have been delayed owing to the impact of the global coronavirus disease (COVID-19) pandemic. The intergovernmental nature of the Programme requires certain institutional decisions to be taken, and strategic programming guidance to be given, by Member States through their national focal points before substantive environmental law activities can begin under the Programme. More specifically, a first global meeting of national focal points must be held in order to designate the steering committee for implementation and adopt the committee's modalities of work,⁵ and to enable national focal points to identify the priority areas for the implementation of the Programme and provide strategic advice, guidance and direction to the secretariat in the delivery of the Programme.⁶

6. Global meetings of national focal points are to be held biennially, face to face or remotely, as appropriate.⁷ The first global meeting of national focal points was scheduled to take place in Rio de Janeiro, Brazil from 23 to 25 March 2020. Because of the risks posed by, and the impact of, the COVID-19 pandemic, the secretariat decided to postpone the meeting to September 2020, as was communicated to national focal points on 15 April 2020. The secretariat explored the possibility of holding the meeting online. However, after informal consultations with Member States and other stakeholders, and given the nature of the subject matter of the meeting and the decisions to be taken, it was decided that the meeting should be held in person. To that end, the secretariat decided to postpone the meeting again, as was communicated to national focal points on 22 June 2020. Given the continuing uncertainty regarding when a face-to-face meeting can be held, the secretariat is consulting with Member States on options for a "two-segment" first global meeting of national focal points. This would entail an online segment in the first half of 2021 to identify one to three possible priority areas for the Programme and designate the steering committee for implementation, followed by a more substantive face-to-face meeting to be held when possible.

7. While substantive environmental law activities under Montevideo Programme V have not formally begun, UNEP has invested in and undertaken a range of substantive preparatory activities since the adoption of the Programme. This will ensure that the Programme is optimally positioned for effective implementation after the first global meeting of national focal points. Relevant activities include the following:

(a) *Design and development of the online Law and Environment Assistance Platform.* The Law and Environment Assistance Platform has been developed to be the digital backbone for Montevideo Programme V. It contains information on the Programme and its partners; provides a

² Ibid., para. 2.

³ Ibid., paras. 3 and 4.

⁴ Ibid., paras. 5 and 6.

⁵ Ibid., para. 6 (c).

⁶ Ibid., para. 6 (b).

⁷ Ibid., para. 6 (b) (vi).

clearing-house mechanism for requesting technical assistance under the Programme; serves as a knowledge hub, providing access to environmental laws, model laws, legislative toolkits and other resources and products developed under the Programme or relevant to its activities; and contains a country profile section with contact information for national focal points and links to national environmental legislation, case law and other relevant information. The platform will be launched at the first global meeting of national focal points.

(b) *Increasing the number of designated national focal points.* UNEP, including through its regional offices, has sought the designation of national focal points by Member States that have not yet done so. As at 15 October 2020, the secretariat had received confirmation of the designation of 127 national focal points: 39 from Africa, 34 from Asia and the Pacific, 24 from Latin America and the Caribbean, 13 from Eastern Europe and 17 from the Western European and Others Group. The secretariat has also received designations from the Cook Islands, Niue and the State of Palestine and from the European Union.

(c) *Outreach to proposed Programme partners.* UNEP convened an inter-agency dialogue in Geneva from 26 to 28 November 2019 to build partnerships for the effective implementation of the Programme. The meeting, entitled “Advancing environmental rule of law together”, was attended by representatives of seven secretariats of multilateral environmental agreements, nine United Nations entities and intergovernmental organizations, and the International Union for the Conservation of Nature, and by colleagues from across UNEP. All participants voiced strong support for Montevideo Programme V and expressed their willingness to partner with UNEP in its implementation. UNEP has also undertaken additional partnership discussions throughout 2020 with academics and eminent experts in the field of environmental law, civil-society organizations and private-sector representatives. A list of current partners is maintained on the Law and Environment Assistance Platform.

(d) *Development of Programme communication products.* UNEP has developed a suite of communication products in support of the Programme, including a user-friendly general fact-sheet describing the Programme, to be translated into the official United Nations languages; a user-friendly fact sheet describing the role of Programme national focal points, to be translated into the official United Nations languages; a dedicated Programme page on the UNEP website with information and links to relevant documentation; and a short visual animation describing the Programme.⁸

(e) *Development of documentation for the first global meeting of national focal points.* In preparation for the first global meeting, originally scheduled for 23–25 March 2020, UNEP prepared a draft provisional agenda, a draft annotated provisional agenda and meeting documentation on (a) the status of implementation of the Programme; (b) the status of nominations of national focal points to the Programme; (c) proposed strategic activities for the biennium 2020–2021; and (d) draft modalities of work for the steering committee for implementation. The documents will be updated after further consultations with national focal points. Final versions will be circulated six weeks in advance of the rescheduled meeting.

(f) *Seeking strategic alignment with the draft programme of work for 2022–2023 and the medium-term strategy for 2022–2025.* In its resolution 4/20, the United Nations Environment Assembly requested the Executive Director to implement Montevideo Programme V through the programmes of work for the decade beginning in 2020, as approved by the Environment Assembly, in a manner that strengthened the related capacity in countries and contributed to the environmental dimension of the 2030 Agenda and was fully consistent with relevant UNEP medium-term strategies. The secretariat has sought to ensure that Montevideo Programme V is appropriately aligned with and integrated into the draft programme of work for 2022–2023 and the draft medium-term strategy for 2022–2025, to be considered for adoption by the Environment Assembly at its fifth session.

(g) *Aligning the ongoing work by UNEP in environmental law with Montevideo Programme V.* Under its medium-term strategy for 2018–2021 and programme of work for 2020–2021, UNEP has an active portfolio of ongoing activities to support countries in strengthening institutions and in developing and implementing environmental legal frameworks to achieve internationally agreed environmental goals and commitments. While the activities are not technically under Montevideo Programme V, for the reasons outlined above, UNEP has sought to align its

⁸ Communication products relating to the Montevideo Environmental Law Programme are available at www.unenvironment.org/explore-topics/environmental-rights-and-governance/what-we-do/promoting-environmental-rule-law-1.

environmental law activities with the vision, objectives, strategic activities and implementation guidelines of the Programme, in consultation with national focal points. These efforts include, but are not limited to, reorienting activities to strategically focus on providing countries with practical guidance, tools, innovative approaches and resources for the effective and inclusive development and implementation of environmental law. Examples of activities undertaken include a global assessment of air pollution legislation, the development of guidance thereon, and associated online consultations with national focal points; the development of global guidance on the regulation of single-use plastics; the development of guidance for policy and legislation on integrated waste management in times of pandemics, scheduled for publication in June 2021; and the development of online courses and information and data exchange platforms on environmental rule of law.

8. As at 15 October 2020, no dedicated funding was available to UNEP to implement Montevideo Programme V. UNEP undertakes its work associated with the Programme using resources allocated to the UNEP Law Division for its role in implementing the environmental governance subprogramme of the UNEP programme of work for 2020–2021. The resources comprise those from the Environment Fund and earmarked extrabudgetary resources from bilateral donors.

9. It will not be possible to provide an informed estimate of funding needs for activities under Montevideo Programme V until national focal points are able, at the first global meeting of national focal points, to identify the priority areas for the implementation of the Programme and provide strategic advice, guidance and direction to the secretariat. The national focal points are expected to consider and endorse a costed workplan for the Programme at the global meeting. Until then, UNEP will continue to implement its obligations under its programme of work for 2020–2021 and utilize its existing resources and staffing structure.

10. The secretariat is tasked with seeking to procure appropriate funding for the implementation of activities under Montevideo Programme V and with considering the establishment of a trust fund for management of designated funds, as appropriate, in accordance with relevant Environment Assembly decisions, and including through other sources of funding such as voluntary contributions from Governments, the private sector, foundations and other organizations.⁹ It has contacted potential donors, but to date no concrete commitments have been obtained. UNEP encourages and welcomes any voluntary contributions from Governments, the private sector, foundations and other organizations. The secretariat will examine the funding position for the Programme in July 2021 and, if necessary, consider establishing a trust fund for the management of designated funds, as appropriate, in accordance with relevant decisions of the Environment Assembly.

II. Recommendations and suggested actions

11. The Environment Assembly may wish:

(a) To note and welcome the progress made so far towards implementation of Montevideo Programme V;

(b) To invite Member States that have not yet done so to designate national focal points for the Montevideo Programme, pursuant to Environment Assembly resolution 2/19;

(c) To invite Governments, the private sector, foundations and other organizations to provide voluntary contributions to support the implementation of Montevideo Programme V;

(d) To request the Executive Director of UNEP to continue to seek appropriate funding for the implementation of activities under Montevideo Programme V and consider establishing a trust fund for the management of designated funds, as appropriate, in accordance with relevant Environment Assembly decisions and resolutions.

⁹ UNEP/EA.4/19, annex, para. 6.