



22 July 2015

Report of the Montevideo Programme Environmental Law Seminar: Laws to promote environmental sustainability of oceans and seas Panama City, 9 and 10 July 2015

1. The secretariat of the United Nations Environment Programme (UNEP) convened an environmental law seminar “*Laws to promote environmental sustainability of oceans and seas*” at Panama City, Panama on 9 and 10 July 2015.
2. The seminar was part of the process for the midterm review of the implementation of the fourth Programme for the Development and Periodic Review of Environmental Law (Montevideo Programme IV). It was open to experts from Governments, United Nations system bodies, other relevant organizations and other stakeholders having expertise in the topic of the seminar, including academia and expert institutions. The list of experts who attended the seminar may be found in the annex.
3. The representative of the secretariat, following the opening of the meeting at 9.30am on 9 July 2015, facilitated discussions. The Deputy Director of the UNEP Regional Office for Latin America and the Caribbean also welcomed the experts during the opening session.
4. The following topics were considered during the seminar:
 - (a) Legal frameworks and other measures to address the impact of air-borne pollution or changes in the atmosphere (especially climate change) on oceans and seas, including ocean acidification;
 - (b) Laws, regulations and other measures to control pollution of oceans and seas from marine debris, hazardous chemicals, wastewater and nutrients;
 - (c) Laws, regulations and other measures for conservation and sustainable use of living marine resources and biodiversity, including those beyond national jurisdiction;
 - (d) Laws, regulations and other measures concerning pollution and other damage from environmental modification or exploitation of non-living natural resources at sea.
5. The experts’ discussion was informed by recognition that the oceans, seas and coastal areas form an integrated and essential component of the Earth’s ecosystem and are critical to sustaining it. The importance of conservation and sustainable use of marine biodiversity beyond the areas of national jurisdiction was acknowledged.
6. The experts noted that the United Nations Convention on the Law of the Sea (UNCLOS) provides an overarching international legal framework to govern matters related to oceans and seas, and it contains provisions relevant to all the topics for consideration at this seminar, while implementation of those provisions is carried out through national legislation of the respective Governments or relevant international agreements and arrangements.

7. They also noted that there are a number of other international treaties and international non-legally binding instruments to cover certain aspects of those topics at the regional and global levels. Those include, for instance: the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region (Cartagena Convention) and its protocols, the Convention for the Protection of the Marine Environment and Coastal Areas of the South-East Pacific (Lima Convention), the Ramsar Convention on Wetlands, the Convention on Biological Diversity, the Convention on the Conservation of Migratory Species of Wild Animals, the Convention on International Trade in Endangered Species of Wild Fauna and Flora, and the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities.

8. The experts noted that growing international concern in a number of areas concerning marine pollution - including marine debris (especially plastic), persistent organic pollutants, heavy metals and nitrogen-based compounds - from a number of marine and land-based sources, including shipping and land run-off. Furthermore, there is the need for collective action to prevent further ocean acidification, as well as to enhance the resilience of marine ecosystems.

9. During the seminar, experts made the following points.

10. **Practical challenges faced by national governments in protecting the marine environment include:**

- (a) Over-exploitation of habitats, and habitat loss and degradation. Some habitats, for example mangrove swamps, are not only valuable natural resources but also provide protection to the local population in the event of environmental disasters;
- (b) Protection of local flora and fauna; and dealing with invasive alien species – for example lion fish and sargassum are particular problems in the Caribbean area; and
- (c) Climate change, resulting in redistribution of marine species and reduction of marine biodiversity.

11. **Regulatory challenges include:**

- (a) Developing the capacity to frame the necessary laws and to enforce them;
- (b) Engaging the local population, and explaining to them the value of marine resources;
- (c) Striking the right balance between conservation and development; and
- (d) Tackling corruption.

12. **Impact of air-borne pollution and changes in the atmosphere, especially climate change, on oceans and seas**

- (a) “Pollution of the marine environment” under Article 1 (4) of UNCLOS include the indirect introduction by human of energy into the marine environment, which drives the increase in energy stored in the oceans and its associated impacts, including ocean warming, sea level rise, marine species redistribution, impacts on ecosystems, and also

the indirect introduction of anthropogenic carbon dioxide into the marine environment, which causes ocean acidification.

- (b) Ocean warming dominates the increase in energy stored in the climate system due to increased concentrations of greenhouse gases emissions in the atmosphere. More than 90 % of the energy was accumulated between 1971 and 2010. It causes: sea-level rise; redistribution of marine species and reduction of marine biodiversity in climate change sensitive regions; threat to the long-term sustainability of coral reefs and human coastal communities. Under Article 4 (d) of the United Nations Framework Convention on Climate Change (UNFCCC), oceans and coastal and marine ecosystems, among others, are identified as sinks of greenhouse gases. 30 % of emitted carbon dioxide is absorbed by the oceans.
- (c) There are co-benefits in promoting synergy between UNCLOS and UNFCCC: mitigation action aimed at cutting carbon dioxide and other greenhouse gases emissions and adaptation efforts are an important step in meeting relevant obligations of States under UNCLOS; implementation of the provision of UNCLOS on the protection and preservation of the marine environment and on the conservation of marine living resources is important for the achievement of mitigation and adaptation goals, by building resilience to the effects of climate change.
- (d) In addition, control of emission of air-born pollutants regulated by other international treaties, such as persistent organic pollutants and mercury under the Stockholm and Minamata conventions, respectively, facilitates also the implementation of the provision of UNCLOS on the protection and preservation of the marine environment and on the conservation of marine living resource. Those pollutants are also released as effluent from land-based activities.

13. **Ocean acidification**

- (a) Oceans are assimilating carbon dioxide and becoming more acidic, damaging shellfish, pteropods and corals; that has significant consequences for global biodiversity, food production and related economic activity.
- (b) Whilst a number of multilateral environmental agreements and international policies relate to ocean acidification, there is no overarching and holistic regime.
- (c) The importance of the issue has been recognized by the General Assembly, which has called for more research, and increased efforts to address levels of ocean acidity and its effects on vulnerable ecosystems, particularly coral reefs.

14. **Marine pollution, especially plastic debris and microplastics**

- (a) Notwithstanding the threats to biodiversity and economic activity caused by marine plastic debris, there is no hard or soft law regime that simultaneously addresses the causes and impacts.
- (b) There have been no effective international efforts to create economic incentives to avoid marine debris.

- (c) The ecological damage caused is difficult to address at the national level alone: debris migrates from the jurisdiction of one state to another and to areas beyond national jurisdiction.

15. Biodiversity in areas beyond national jurisdiction

- (a) There are many significant threats to biodiversity in areas beyond national jurisdiction, including the growth of commercial fishing and increased interest in mineral exploitation in areas beyond national jurisdiction, more shipping traffic and land based sources of pollution.
- (b) In resolution 69/292 the General Assembly decided to develop an international legally binding instrument on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.
- (c) There needs to be coordination of the international law community's efforts to address areas beyond national jurisdiction; for the time being different legal regimes apply, several sectoral organizations have competence and there is no overall cross-sectoral coordinating mechanism for management.

16. Living marine resources in areas beyond national jurisdiction

- (a) There has been a steady increase in the percentage of stocks fished at biologically unsustainable levels; and Illegal, unreported and unregulated fishing remains a major global threat to the long-term sustainable management of fisheries.
- (b) Whilst there is arguably a comprehensive international framework for sustainable fisheries there is limited implementation, a lack of consistent interpretation of norms and principles, and inadequate mechanisms for compliance verification.

17. Pollution in areas beyond national jurisdiction

- (a) Areas beyond national jurisdiction comprise nearly 50% of the earth's surface and are increasingly affected by human activities; according to some estimates, more than 40% of the oceans are strongly affected by human activities.
- (b) International regulation of marine pollution in areas beyond national jurisdiction is fragmented with a number of international instruments relating to different regions and/or different sources of pollution; a more holistic approach might provide new and better tools to tackle marine pollution.
- (c) Although there is a regulatory regime under Part XI of the United Nations Convention on the Law of the Sea controlling deep seabed mining in areas beyond national jurisdiction, the regime is based on legal instruments that were negotiated some time ago, and is primarily focused on exploration; there may be scope for further work.

18. After an exchange of courtesies, the meeting was closed at 6pm on 10 July 2015.

Annex

List of participants

Experts

- Ms. Alessandra Vanzella-Khoury, SPAW Programme Officer, UNEP-CAR/RCU, Kingston, Jamaica
- Ms. Liliana Arrieta, Technical Secretariat, REDICA, San Jose, Costa Rica
- Ms. Valentina Germani, Legal Officer (Programme Advisor), Division for Ocean Affairs and the Law of the Sea, Office of Legal Affairs, United Nations, New York, USA
- Mrs. Sadie-Ann Sisnett, Research Officer, Coastal Zone Management Unit, St. Michael, Barbados
- Ms. Ana Salerno, Instituto El Derecho para un Planeta Verde, Buenos Aires, Argentina
- Ms. Claudia Carvajal, Legal Advisor, Ministry of Environment and Sustainable Development, Bogota, Colombia
- Ms. Marisol Agüero, Director, Legal Affairs and Intl. Maritime Policy, Permanent Commission for South Pacific, Guayaquil, Ecuador
- Ms. Viviana Gutiérrez, Regional Manager – Policy Advocacy, Fundación MarViva, Costa Rica
- Ms. Andrea Jacobs, Environment Consultant, Environment Division, Ministry of Health and the Environment, St. John's, Antigua and Barbuda
- Mr. Milton Houghton, Executive Director, Caribbean Regional Fisheries Mechanism Secretariat, Belize City, Belize
- Ms. Faith Bulger, Programme Officer, Sargasso Sea Commission, Washington, DC, USA
- Mr. Francisco Arias, General Director, Institute on Marine and Coastal Research, Santa Marta, Colombia
- Mr. Dhana Yingcharoen, Director of Planning Division, Department of Marine and Coastal Resources, Thailand
- Ms. Jessica Young, Environment Officer, UNDP Panama, Panama
- Ms. Yadel Quijano, Maritime Authority of Panama, Panama
- Mr. Arturo Dominici Arosemena, Executive Director, Ramsar Regional Center, Panama
- Ms. Rebeca Magaña, Technician Officer, Ramsar Regional Center, Panama

UNEP secretariat

- Mr. Masa Nagai, Deputy Director, Division of Environmental Law and Conventions, United Nations Environment Programme, Nairobi, Kenya
- Ms. Mara Murillo, Deputy Director, Regional Office for Latin America and the Caribbean, United Nations Environment Programme, Panama City, Panama
- Ms. Andrea Brusco, Regional Coordinator – Environmental Law, United Nations Environment Programme, Panama City, Panama
- Mr. Alberto Pacheco Capella, MEA Regional Focal Point (Biodiversity), United Nations Environment Programme, Panama City, Panama
- Ms. Alistair McGlone, Consultant, Division of Environmental Law and Conventions, United Nations Environment Programme
- Ms. Susana Sanchez, Assistant - Environmental Governance, United Nations Environment Programme, Panama City, Panama