



PROGRAMME FOR THE DEVELOPMENT AND PERIODIC REVIEW OF ENVIRONMENTAL LAW FOR THE 1990s

June 1993

UNITED NATIONS ENVIRONMENT PROGRAMME

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INTRODUCTION

Since its adoption by the UNEP Governing Council in 1982, the Montevideo Programme for the Development and Periodic Review of Environmental Law has guided UNEP towards further development of environmental law, in particular international legal instruments in the field of the environment. Under the Programme, a number of international legal instruments were elaborated and adopted, including international conventions on protection of the ozone layer and control of transboundary movements of hazardous wastes as well as guidelines and principles on marine pollution from land-based sources, hazardous wastes management, international information exchange on banned or severely restricted chemicals, and environmental impact assessment. The Programme had also served as a basis for developing international conventions on biological diversity and climate change.

In order to further elaborate the Montevideo Programme to address emerging environmental problems and develop relevant legal regimes, UNEP convened two sessions of the Meeting of Senior Government Officials Expert in Environmental Law for the Review of the Montevideo Programme in Rio de Janeiro in October/November 1991 and in Nairobi in September 1992 respectively. Through the two sessions, government experts from more than 80 developing and developed countries and observers from relevant organizations attended the meeting. Participants of the latter session of the meeting, taking into account the outcome of UNCED, in particular Agenda 21, considered a draft Programme prepared by the UNEP secretariat and agreed on the Programme for the Development and Periodic Review of Environmental Law for the present decade.

On 21 May 1993, the UNEP Governing Council by its decision 17/25 adopted the above-mentioned Programme as the broad strategy for the activities of UNEP in the field of environmental law for the 1990s. In the same decision, the Council underlined the role of UNEP in the continued progressive development of international environmental law as a means for achieving wider adherence to and more efficient implementation of international environmental conventions, and for the future negotiating process for legal instruments in the field of sustainable development. The Council also encouraged the Executive Director to implement the Programme, where appropriate, in close cooperation with relevant international organizations.

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- PROGRAMME AREAS, OBJECTIVES, STRATEGIES AND ACTIVITIES -

The following programme areas, together with the respective objectives, strategies and activities, are proposed as a non-exhaustive list of elements for the Programme:

A. Enhancing the capacity of States to participate effectively in the development and implementation of environmental law

Objective:

To achieve the full participation of all States in the development and effective implementation of environmental law and policy.

Strategy:

Strengthen the capacity of States, in particular developing countries, and countries with economies in transition to take measures to protect their environment, to achieve sustainable development and to participate effectively in the initiation, negotiation and implementation of international legal instruments in the field of the environment.

Activities:

Coordinate with relevant international organizations to:

- (a) Assist States to establish and/or improve institutional and administrative machinery for the development and enforcement of laws and regulations related to the environment and to sustainable development;
- (b) Improve arrangements for the receipt, processing and dissemination of information on environmental legislation from national, regional and international sources;
- (c) Train appropriate personnel from developing countries and countries with economies in transition by means of the provision of grants and fellowships for training and in-work attachments, as well as by organizing relevant seminars and workshops on environmental law;
- (d) Assist States in developing and strengthening relevant national institutions and improving coordination, within Governments among departments and agencies;

(e) Prepare and issue reference material providing information on practices and experiences in the development, negotiation and implementation of environmental law agreements;

(f) Arrange for appropriate financial and/or technical assistance to enable representatives of developing countries and countries with economies in transition to participate in the negotiation of new or in the revision of existing international environmental agreements and in the international operation of such agreements;

(g) Develop, where appropriate, guidelines for the preparation of national legislation for the implementation of international environmental agreements;

(h) Encourage States to develop national environmental action plans or strategies, pursuant to international environmental agreements.

*B. Implementation of international legal instruments
in the field of the environment*

Objective:

To promote the effective implementation of international legal instruments in the field of the environment, in order to achieve their objectives.

Strategy:

Focus on the effective implementation of instruments by, *inter alia*, assisting the States concerned in considering the establishment of systems of reporting and verification, taking into account the special situation and needs of developing countries.

Activities:

Assist, as appropriate, concerned States and relevant international organizations to:

(a) Identify the real causes of non-compliance and provide the maximum possible assistance, especially to developing countries, to facilitate compliance;

(b) Establish efficient and practical reporting systems on the effective, full and prompt implementation of international legal instruments, considering, *inter alia*, the reporting systems in other fields such as human rights and nuclear activities, providing, where appropriate, for public comments on such reports;

(c) Examine the possibility of establishing verification systems for international legal instruments having regard to the experiences gained, *inter alia*, under the Montreal Protocol and in other relevant contexts;

(d) Consider the establishment of other appropriate procedures and mechanisms for promoting and facilitating effective, full and prompt implementation of international legal instruments;

(e) Consider appropriate ways in which relevant international bodies, such as UNEP, might contribute towards the further development of such procedures and mechanisms.

C. Adequacy of existing international instruments

Objective:

To encourage Parties to international environmental instruments to assess the adequacy of the operation of those instruments with regard to the particular problems they address and for the purpose of better integrating environmental and developmental concerns.

Strategy:

Encourage the States concerned to establish appropriate systems for ascertaining the adequacy of international environmental instruments in effectively responding to the problems they address, even when fully or adequately complied with, and develop additional measures to ensure effective responses to related environmental problems.

Activities:

Encourage, as appropriate, concerned States and international organizations to:

(a) Undertake assessments of the adequacy of existing environmental instruments, taking into account the previous studies undertaken in this area and provide for the inclusion in future environmental instruments of adequate mechanisms for undertaking such assessments. The assessments should:

- (i) Look at and beyond the issue of how many States have become parties to a particular instrument;
- (ii) Ascertain whether the instrument adopts an adequate strategy for tackling the problem or whether the strategy adopted in the instrument continues to be adequate for tackling the problem and, where lack of effectiveness is identified, consider ways to rectify the problem; and
- (iii) Utilize scientific and technical reviews, where appropriate by independent experts, of the state of the relevant area of the environment;

(b) Consider appropriate ways in which relevant international bodies, such as UNEP and its Global Environment Monitoring System (GEMS), might contribute to such assessments;

(c) Promote broader accession to existing instruments, whilst being attentive to difficulties that might dissuade non-party States from accession.

D. *Dispute avoidance and settlement*

Objective:

To develop further the mechanisms to facilitate the avoidance and settlement of environmental disputes.

Strategy:

Develop methods, procedures and mechanisms that promote, *inter alia*, informed decisions, mutual understanding and confidence-building, with a view to avoiding environmental disputes and, where such avoidance is not possible, to their peaceful settlement.

Activities:

- (a) Study and consider methods to broaden and make more effective the current mechanisms, such as the following, for possible inclusion in international legal instruments, where appropriate:
 - (i) Regular exchange of data and information;
 - (ii) Assessment of possible environmental impacts of planned measures on other States or areas beyond the limits of national jurisdiction;
 - (iii) Prior notification and consultation concerning planned measures that may have adverse impacts on other States or in areas beyond the limits of national jurisdiction;
 - (iv) Monitoring, fact-finding and reporting with regard to matters relating to obligations under the relevant instrument, even when no difference or dispute has yet arisen between the parties;
 - (v) Procedures to verify compliance through a non-judicial body established by the

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