Meeting of senior government officials expert in environmental law on the midterm review of the fourth Programme for the Development and Periodic Review of Environmental Law (Montevideo Programme IV)
Montevideo, 7–11 September 2015


Implementation of Governing Council decision 27/9

Note by the secretariat

The present addendum to the report on the implementation of the Fourth Programme for the Development and Periodic Review of Environmental Law (Montevideo Programme IV) provides a summary of actions undertaken to implement Governing Council decision 27/9 on advancing justice, governance and law for environmental sustainability.
I. Introduction

1. In February 2013, at its first universal session, the Governing Council of the United Nations Environment Programme (UNEP) adopted decision 27/9 on advancing justice, governance and law for environmental sustainability, in which it requested the Executive Director of UNEP to lead the United Nations system and support national Governments, upon their request, in the development and implementation of environmental rule of law. In response to this mandate, UNEP initiated a number of activities and programmes, which are summarized below.

II. Leading the United Nations system and supporting national Governments in the development and implementation of environmental rule of law

2. Today, more than 100 States grant their citizens a constitutional or otherwise fundamental right to a clean, healthy and safe environment. Yet the gap between legal commitments in the field of the environment and their implementation remains a major challenge, with increasingly negative effects on justice, peace and security, human rights, well-being and development. Following the adoption of Governing Council decision 27/9, UNEP has played a leading role within the United Nations Rule of Law Coordination and Resource Group in promoting the development and implementation of environmental rule of law. The Group is chaired by the Deputy Secretary-General and unites all members of the United Nations family with a rule of law mandate. The input of UNEP into this coordination mechanism from the perspective of environmental rule of law has been reflected by the recognition of the Group – following its annual retreat in May 2014 – that environmental rule of law was an important dimension in combating transnational threats to the rule of law and that the expertise of UNEP could be more and better engaged in this area. As a result, UNEP was invited to join the United Nations system Task Force on Transnational Organized Crime and Drug Trafficking and has participated in the Task Force since then.

3. The contributions of UNEP in terms of environmental rule of law within the United Nations system have also been recognized and reflected in the Secretary-General’s annual rule of law reports to the General Assembly. For example, the 2013 report of the Secretary-General on strengthening and coordinating United Nations rule of law activities makes more than 20 references to the environment and the work of UNEP, including references to Governing Council decision 27/9, and holds that environmental sustainability and protection cannot be achieved without a strong system based on human rights and the rule of law (A/67/213, para. 71).

4. UNEP has worked in partnership with the Office of the United Nations High Commissioner for Human Rights (OHCHR) on the issue of human rights and the environment as a critical element in advancing environmental rule of law and has worked to identify and promote good practices relating to the use of human rights obligations and commitments to inform, support and strengthen environmental policymaking. These good practices were published in a compendium¹ and provide practical and concrete examples of how States and other actors have implemented a human rights-based approach to environmental protection and management. Such good practices will be a valuable tool in the context of the implementation of the post-2015 development agenda, which will require States and other relevant actors to adopt policies to advance equitable, human rights-based and sustainable development.

5. The Human Rights Council, at its twenty-eighth session, held in Geneva in March 2015, welcomed the work of the independent expert on human rights and the environment and noted with appreciation the work undertaken by UNEP in support of his mandate. The Council decided to extend for a period of three years the mandate of the current mandate holder as a special rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment. UNEP will continue to support the mandate of the special rapporteur in partnership with OHCHR.

6. The first session of the United Nations Environment Assembly of UNEP, held in Nairobi in June 2014, reiterated and solidified the mandate of UNEP in the area of environmental rule of law, in particular in the areas of illegal wildlife trade and access to justice in environmental matters through its resolutions 1/3 and 1/13, respectively. In response to resolution 1/3, UNEP has provided its expertise in the area of environmental rule of law in the context of the Secretary-General’s policy committee on illegal wildlife trade and technical inputs to General Assembly resolution 69/314, on

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tackling illicit trafficking in wildlife, which was adopted on 30 July 2015. In the resolution, the Assembly encouraged Member States to adopt effective measures to prevent and counter the serious problem of crimes that have an impact on the environment. It urged Member States to take decisive steps at the national level to prevent, combat and eradicate the illegal trade in wildlife, on both the supply and demand sides, including by strengthening the legislation necessary for the prevention, investigation and prosecution of such illegal trade, as well as strengthening enforcement and criminal justice responses, in accordance with national legislation and international law. UNEP and the International Criminal Police Organization (INTERPOL) organized the first International Environmental Compliance and Enforcement Conference, held in Nairobi in November 2013, in order to help build the capacities and sharing of expertise among vital stakeholders in the enforcement of environmental law. The second such Conference is scheduled to be held in Singapore in November 2015. UNEP also supports the secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) in enhancing national legislation in 17 countries to help bring them into compliance ahead of the next meetings of the CITES Standing Committee and governing body in 2016.

7. UNEP also organized the Sixteenth Asia Regional Partners Forum on Combating Environmental Crime, held in Bangkok on 15 January 2015. Participants discussed how to apply anti-money-laundering efforts to address environmental crime. The Anti-Money Laundering Office of Thailand shared its success story on seizing assets worth 1,183 million baht (equivalent to $39.4 million) from a syndicate of illegal wildlife and rosewood traders in 2014. The investigation was the first of its kind in Thailand. Such investigations are seen as a useful tool to enhance the environmental rule of law in the area of crimes and other offences against the environment.

8. Access to justice in environmental matters is another key area of emphasis for UNEP in the implementation of Governing Council decision 27/9, which was further emphasized by the Environment Assembly in its resolution 1/13. This work is based specifically on the UNEP Guidelines on the Development of National Legislation on Access to Information, Public Participation and Access to Justice in Environmental Matters (Bali Guidelines). UNEP is currently collaborating with the United Nations Institute for Training and Research and other partners to enhance the capacity of Governments, major groups and other concerned stakeholders in developing countries and countries with economies in transition to implement Principle 10 of the 1992 Rio Declaration on Environment and Development and the Bali Guidelines and to promote broader capacity development in line with national needs and priorities.

9. The significance of environmental rule of law as both a means and an end in the context of the post-2015 development agenda and the sustainable development goals was recently emphasized during a high-level round table for Member States on environmental rule of law and sustainable development goals, held in New York in May 2015 and organized by UNEP in cooperation with the Secretary-General’s Rule of Law Unit. The event coincided with a briefing by UNEP to the Sixth Committee of the General Assembly on the work of UNEP in the field of the rule of law at the invitation of the Governments of Austria, Liechtenstein and Mexico and the launch of an issue brief on environmental rule of law in the context of the sustainable development goals developed by the UNEP International Advisory Council for Environmental Justice. During these events, the importance of environmental rule of law to achieving sustainable development was recognized and underscored.

10. UNEP has continued to establish and support partnerships in seeking opportunities to promote environmental rule of law with relevant entities. In November 2014 UNEP, along with other partners, organized the first dedicated session on the environment during the fifty-seventh Annual Meeting of the International Association of Judges. Segments during the session focused on access to justice and capacity-building for the judiciary and drew a great deal of interest from the attending judges. Following the session, the Board of the International Association of Judges decided to make the environment a more regular feature in the work of the Association.

11. During the period 2013–2015, UNEP concluded a number of strategic partnerships that sought to advance environmental rule of law. In June 2014, UNEP and the Global Legislators Organization signed a memorandum of understanding to provide a framework of cooperation for the development and implementation of legislation relating to conservation, protection, enhancement, valuation and support of nature and natural resources, including biological diversity worldwide. In November 2014, UNEP and the Organization of American States (OAS) signed a memorandum of understanding to collaborate in fostering respect for environmental laws and sustainable development. The memorandum will develop and implement an inter-American judicial capacity-building programme on

environmental rule of law and establish an inter-American congress on environmental rule of law. On 30 January 2015, UNEP, the Brazilian Association of Judges and the World Commission on Environmental Law of the International Union for the Conservation of Nature (IUCN) signed a memorandum of understanding to support the development and enforcement of environmental law in Portuguese-speaking African countries. UNEP provides technical support to the Working Group on Environmental Auditing of the International Organization of Supreme Audit Institutions (INTOSAI) based on the memorandum of understanding concluded between UNEP and INTOSAI in September 2013. UNEP also works with the World Bank and other partners through the Global Forum on Law, Justice and Development to promote environmental rule of law. In the implementation of Governing Council decision 27/9, UNEP has also been collaborating with partners in facilitating regional dialogues on environmental rule of law with the aim of supporting national Governments and key stakeholders in the development and implementation of environmental rule of law. These dialogues have so far been held in the Asia-Pacific region, in December 2013, and in the Latin American and Caribbean region, in March 2015, and have facilitated the exchange of information and experiences among the legal and auditing communities on environmental rule of law challenges and opportunities specific to the regional context, as well as the integration of the mandate of UNEP in this field into the work of other entities, such as the Organization of American States, the International Union for the Conservation of Nature and others. In addition, in June 2014, on the occasion of the first session of the United Nations Environment Assembly, a global symposium on environmental rule of law was held in Nairobi in partnership with OAS, the Africa Sustainability Centre and IUCN. The First Forum of Ministers and Environment Authorities of Asia-Pacific in May 2015 also included a focus on environmental rule of law in the form of the Asia-Pacific Round Table on Environmental Rule of Law in Support to the Post-2015 Development Agenda. A regional dialogue on environmental rule of law for Africa is scheduled to be held in October 2015 in cooperation with the Kenya Judicial Training Institute and supported by the office of the Chief Justice of Kenya. In the Asia-Pacific region, UNEP, in collaboration with other regional partners, has also organized judicial conferences in Central Asia, South Asia and South-East Asia, renewing the commitment of the judiciary in the region to environmental justice. Also as a result of these efforts, the Supreme Court of Malaysia has now established a court to handle environmental cases. Similarly, a green bench was established in the Supreme Court of Pakistan, in addition to green benches in several high courts of Pakistan. The Supreme Court of Indonesia and the Ministry of the Environment, with the support of UNEP and the Asian Development Bank, have also launched a certificate programme for judges who have completed environmental law training. Specialized environmental courts and tribunals are not unique to Asia, however. In Latin America, the Supreme Court of Argentina recently also instituted an environmental office and so have judiciaries in more than 50 States worldwide. UNEP continues to provide technical expertise to these bodies supported by the UNEP International Advisory Council for Environmental Justice.

3 www.globalforumljd.org.