SELECTED DOCUMENTS

UNEP / IEG / 1st Meeting

Co-Chairs' Summary*

Building on the Set of options for improving international environmental governance of the Belgrade Process

Summary

This summary of the co-Chairs sets out the discussions from the First Meeting of the Consultative Group of Ministers or High-level Representatives on Broader International Environmental Governance Reform, including the process and its work for future meetings.

1. The First Meeting of the Consultative Group of Ministers or High-Level Representatives on Broader International Environmental Governance Reform [hereafter the Consultative Group] convened under Governing Council decision SSXI/1, was held from 7–9 July 2010 in Nairobi, Kenya.

2. Opening statements were made by H.E. Mr Noah Wekesa, Minister for Forestry and Wildlife of Kenya and the UNEP Executive Director, Mr Achim Steiner.

3. The consultations were informed by background papers setting out a number of key questions and identifying the core challenges that countries are facing on International Environmental Governance (IEG).

4. The Consultative Group was made up of delegates from 59 countries, including 1 vice president, 7 ministers and 3 deputy/assistant ministers. Eight Members of the Environment Management Group (EMG) were also represented. The Group elected by acclamation H.E. Ms Paula Lehtomäki, Minister for Environment of Finland and H.E. John Njoroge Michuki, Minister for Environment and Mineral Resources of Kenya to serve as co-Chairs of the meeting.

5. The co-Chairs summary is a reflection of the interactive dialogue that occurred among the ministers and high-level representatives attending the Consultative Group meeting. It reflects the ideas presented and discussed.

6. The Consultative Group will present its final report to the twenty-sixth session of the Governing Council/Global Ministerial Environment Forum to be held from 21–25 February 2011 in Nairobi, Kenya.

A number of parameters were proposed by the co-Chairs to help guide the process:

7. It was noted that the current IEG system is not achieving the objectives of effective IEG.

8. The group should continue its work within the framework of "form follows function".

9. Forms should align to effectively achieve objectives and address gaps in the current system.

10. Recognition that there is a process that is ongoing: Incremental reforms are being implemented by the UNEP Executive Director in consultation with all governments through the UNEP Committee of Permanent Representatives while the Consultative Group is addressing broader reforms of IEG.

11. The international environmental governance debate should be addressed in the broader context of environmental sustainability and sustainable development.

12. The work of the consultative group should continue to be political in nature with the aim of finding practical solutions.

13. The goal of the group should be to arrive at a product by way of some options for broader reform for consideration by the Governing Council at its twenty-sixth session and in time for the Second Meeting of the Preparatory Committee for the United Nations Conference on Sustainable Development as well as the sixty-fifth session of the UN General Assembly.

14. International environmental governance constitutes an essential part of the governance of sustainable development and within this context its strengthening will directly contribute to a more effective sustainable development governance system.

Ministers and high-level representatives generally discussed the following:

15. Discussions were held on all the objectives contained in the paper "Ideas for broader reform of international environmental governance", provided to the meeting as a background document. These areas were:

a) Creating a strong, credible and accessible science base and policy interface.
b) Developing a global authoritative and responsive voice for environmental sustainability.
c) Achieving effectiveness, efficiency and coherence within the United Nations system.
d) Securing sufficient, predictable and coherent funding.
e) Ensuring a responsive and cohesive approach to meeting country needs.

16. At the conclusion of the debate, the co-Chairs presented a document containing an indicative number of options, reduced from the original 24 options to a number of 9 (Annex I). The options presented in the reduced and revised document are indicative in that they do not necessarily command consensus, as others have been supported by delegations.

17. The meeting welcomed the reduction of options but suggested that the language of the options and descriptive chapeau paragraphs be amended, taking into account the written comments already submitted by governments, to reflect the evolving, non-excluding nature of the debate held during the meeting. The co-Chairs also stated that none of the options contained in the Executive Director's paper entitled "Ideas for broader reform of international environmental governance" have been ruled out at this stage.

18. A document to help format a comparative analysis of options for broader IEG reform was tabled.

19. The Consultative Group invited the co-Chairs, with the advice of the Executive Director, to prepare documentation that draws upon the discussion of the Consultative Group during its first meeting, to undertake further analysis.

20. The Consultative Group invited the co-Chairs to circulate, through the Executive Director, the documents for comments electronically to governments in good time and in accordance with the time frame adopted by the meeting. The co-Chairs would, after receiving comments, prepare a final version of the documents, adequately reflecting the received comments and the advice of the Executive Director, for submission to the second meeting of the Consultative Group.

21. The Consultative Group requested the Executive Director, in his capacity as Chair of the EMG to continue to seek its inputs to the process and to invite civil society to make comments through the Secretariat.

22. Participants noted the elements of a roadmap attached in Annex II to this co-Chairs' summary and requested the Executive Director to make arrangements for the second meeting of the Group with a high-level officials meeting to be convened immediately before it. The second meeting will take place in November 2010 in Helsinki, Finland. The co-Chairs encouraged the Executive Director to seek extra-budgetary resources for the participation of developing countries in the meeting.

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* See also page 202.

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Other matters discussed during the course of the consultations on broader reforms of IEG:

23. It was maintained that broader reform should be practical but ambitious. In this regard, focus should be on proposing smart, cost-effective, and valuable reform options that are acceptable to all – within the broader perspective of sustainable development.

24. It was highlighted that in the discussions on broader reform of IEG there is a need to bear in mind the bigger picture of sustainable development and the need for mainstreaming among all three pillars of sustainable development. It is also essential to analyze the options for reform in light of their effect on and relationship with the broader UN system.

25. Support was voiced for strengthening UNEP and building upon its comparative advantages, but it was also stated that the IEG discussion should not only focus on UNEP.

26. It was suggested that Ministers of Environment must have a global enabling body where they can put forward their views and exercise effective leadership on global environmental issues. From this follows that developing an authoritative voice for the system is an essential part of the political challenge at hand.

27. There was discussion on the need to establish a global authoritative voice for the environment. It was also maintained that there is a need to ensure effective use and streamlining of existing institutions, rather than creating new ones. Others suggested a "scrap and build approach".

28. The financial and legal implications of any proposals on broader reform should be taken into account.

29. A better understanding of the ongoing work and progress on incremental reforms of UNEP in the Committee of Permanent Representatives was sought in order to inform the discussion on broader reform.

30. There was discussion on the implementation gap that exists between the commitments that have been made internationally and implementation at the national level. It was said that, in addition to political will, countries require capacity and means of implementation to close the gap.

31. Two MEA secretariats raised the need for better implementation of MEAs at the national level and the important role UNEP could play in assisting countries to implement MEAs.

32. The clustering of MEAs, especially in light of the successful process among the chemicals and waste conventions, was considered an essential way of reform. It was, however, noted that cost-neutrality and re-allocation of resources to national implementation is a prerequisite for a good outcome.

33. It was highlighted that not every issue that needs collective action can be addressed by the sum of national efforts: IEG has two key objectives: a. instruments at country level, and b. international instruments for collective action. Enhanced IEG is about coherence and active synergy between these two key IEG objectives.

34. There was discussion to the effect that addressing the implementation gaps in environmental programmes will require identifying the specific needs of countries and responding to them.

35. The importance of capacity building for MEA implementation was noted and that the implementation of the Bali Strategic Plan should be part of the broader reforms.

36. It was noted that some recent progress (IPBES, GEO 5) has been made towards establishing a credible and accessible science-policy interface.

37. Competition among UN agencies for influence and resources was highlighted as a source of inefficiency and ineffectiveness of many programmes and a matter to be resolved duly.

38. The need for the Consultative Group to be transparent and inclusive by seeking the inputs of countries, UN entities, international organizations and civil society was pointed out.

Acknowledgements

39. The Consultative Group expressed their sincere thanks to the Governments of Germany and Norway for their generous contributions to enable the participation of developing country representatives to the meetings.

40. Participants expressed their sincere and special thanks to the Government of Kenya and H.E. John Michuki, Minister for Environment and Mineral Resources of Kenya, for the warm hospitality and impeccable arrangements in hosting the first meeting of the Consultative Group.

CEDE

Resolution on the Right to Sanitation*

The European Council on Environmental Law (CEDE),

Recalling that all European States have ratified the International Covenant on Economic, Social and Cultural Rights (1966) in which Parties recognise "the right to an adequate standard of living" and "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health" (articles 11 and 12);

Recalling the Protocol on Water and Health (1999) according to which "Parties shall, in particular, take all appropriate measures for the purpose of ensuring […] adequate sanitation of a standard which sufficiently protects human health and the environment" (article 4.2.(b));

Considering that realisation of "the right of every person of present and future generations to live in an environment adequate to his or her health and well-being" (Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, 1998, article 1) requires that sanitation be recognised as a right;

Recalling the Convention on the Elimination of All Forms of Discrimination against Women (1979, article 14.2 (h)) according to which sanitation is part of adequate living conditions, and the Convention on the Rights of Persons with Disabilities (2006, article 28.2);

Noting that "The European Union recognises that the human rights obligations regarding access to safe drinking water and to sanitation are closely related to individual human rights – as the rights to housing, food and health." (Declaration of the European Council of 22 March 2010);

Convinced that rights-based approaches will help the protection of human health and the environment;

Adopts the European Charter on the right to sanitation;

Recommends that European States implement this Charter in their policies and legislation and support the international recognition of the right to sanitation as a human right.

European Charter on the Right to Sanitation

The Right to Sanitation

1. Sanitation is the collection, transport, treatment, disposal or reuse of domestic wastewater (black and grey waters), other wastewater and human excreta.

2. Access to sanitation is a human right, the implementation of which is necessary to make effective many other human rights, in particular the right to health and to housing. This right requires that every person without discrimination has access to suitable

* Adopted on 24 May 2010 in Milan. See also page 228.

sanitation services and sanitary installations free of charge or at an affordable price.

3. Each State shall define in its legislation the content of the right to access to sanitation having regard, where appropriate, to its geographic, economic, social or cultural characteristics.

4. Everyone without discrimination is entitled to the benefit of protective measures against contamination from waste. Conversely everyone must respect their obligations to protect human health and the environment and to respect dignity.

5. There shall be a right to connect wastewater to public sewage facilities on payment of an appropriate contribution towards the costs of sanitation. No one shall be denied access to collective sanitation services or sanitary installations except for reasons of overriding public policy.

6. Toilet facilities shall be available in each residence and workplace. Public toilet facilities shall be made available at appropriate locations and in proportion to the needs of different categories of users, such as disabled persons. Such facilities shall meet sanitary requirements and shall be designed and operated so as to avoid pollution, ensure respect for dignity and be socially and culturally acceptable.

7. Everyone has the right of access to information about sanitation in order to participate effectively in the planning and decision-making procedures on sanitation.

Role of Public Authorities

8. All those who generate wastewaters shall cooperate to ensure the management of such wastewater so as to protect human health and the environment having regard to land use planning requirements. Management of wastewater shall be coordinated with the drainage of rain and groundwater and with actions to promote water reuse.

9. Public authorities shall adopt legal and institutional frameworks to promote proper sanitation, develop related strategies and action plans including quantitative targets and time tables for their implementation, prescribe minimum requirements for the collection and treatment of wastewater, enforce sanitation standards and ensure the operation, maintenance and renewal of sanitation systems. They shall collect statistical data to monitor progress in sanitation.

10. Public authorities, having assessed the effects on the environment, shall provide or secure the construction of sewage systems and wastewater treatment installations wherever housing density is sufficient. Public authorities shall decide after consultation of the public the extent of the sewered areas and the plans for their enlargement.

11. Public authorities shall draw up investment plans for public sanitation systems, specify cost sharing, develop, as appropriate, direct and cross subsidies systems and provide for the establishment of a system for wastewater charges.

12. Everyone not connected to public sewage services shall ensure the sanitation of their waste in private sanitation installations. Public authorities shall ensure that such installations do not harm public health and the environment.

13. Public authorities shall ensure on a priority basis that everyone without access to adequate sanitation is provided access to basic sanitary installations. They shall ensure that vulnerable populations and, in particular, communities living in degraded urban areas, have access to adequate sanitary installations free of charge or at an affordable price.

14. Public authorities shall effectively enforce the sanitation legislation so as to avoid harm to public health and the environment.

15. Public authorities shall ensure that the cost of sanitation measures is not an excessive burden for persons with reduced financial means.

16. Public authorities shall disseminate information on public hygiene relevant to sanitation in educational systems and in the media.

Resolution on the Right of Access to Nature*

The European Council on Environmental Law

Cognisant that access to nature is essential for the physical and psychological health of human beings and a key element of individual and social well being,

Cognisant that the European landscape is part of the natural and cultural heritage of all Europeans,

Aware that access to nature is acutely threatened by *inter alia* rapid urbanisation, changing interpretations of property rights, the commodification and parcelling of nature and the landscape, the increasing disconnection between humans and nature and failures in land use plans to provide adequate access to nature,

Believing that the right to health and well being, to respect for private and family life and to the right to a healthy environment include a right of access to nature,

Conscious that a right of access to nature is essential for the proper education and development of all, especially children, the maintenance of traditions and cultures, the generation of social capital and the promotion of sustainable development, social and territorial cohesion.

Recommends that

All States should provide a right of access to nature and a right of passage through natural areas such as the uncultivated countryside, seashores, lakeshores, riversides, forests, mountains and wilderness areas in order to maintain and promote for current and future generations opportunities for outdoor recreation as a leisure activity that is healthy, environmentally sound and conducive to the promotion of human health and well-being,

The right of access shall at least include a right to walk through and additional rights permitted by law and shall not include the right to traverse cultivated lands, the demarcated curtilage of homes or other occupied buildings or to areas to which access has been officially restricted or denied for defence, environmental or public health or safely reasons.

Courtesy: City of Vancouver

States may take appropriate measures to restrict rights of access when there is a high risk of fire.

Public authorities shall ensure that their land-use plans and/or property registers identify, record and re-affirm existing public rights of way and areas to which the public has traditionally had a right of access. Public authorities shall endeavour to increase the number of these rights and areas as much as possible.

Public authorities shall inform and educate persons on their legal and ethical responsibilities to the environment and to landowners over whose lands access is exercised and shall strictly enforce penalties for abuse of access rights.

In providing for access rights, special account shall be taken of the concerns of indigenous and local communities, of local cultural values and sacred sites.

Those exercising the right of access shall observe relevant laws and codes of practice concerning the protection of nature and property rights.

Those exercising the right of access shall be primarily responsible for their own safety. Landowners and occupiers shall not be responsible for losses and injuries suffered by recreational users unless they have acted with reckless disregard for their safety.

Public authorities shall in accordance with the laws of their own jurisdictions indemnify persons whose property rights are seriously impacted by public access by providing for the remediation of damage suffered.

* Adopted on 25 November 2006 in Funchal. See also page 229.

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AALCO

Resolution* on "Environment and Sustainable Development"

The Asian-African Legal Consultative Organization at its Forty-Ninth Session,

Considering the Secretariat Document No. AALCO/49/DAR ES SALAAM/2010/S 10;

Noting with appreciation the views expressed by the President, the Deputy Secretary-General and the Panelists and the statements of Member States during the Special Meeting on "Environment and Sustainable Development" jointly organized by the Government of Tanzania, the International Council of Environmental Law and the AALCO Secretariat on 7 August 2010 at Dar es Salaam, the United Republic of Tanzania;

Deeply concerned with the deteriorating state of the global environment through various human activities, and unforeseen natural disasters;

Reaffirming that environmental protection constitutes an integral part of sustainable development;

Welcoming the adoption of the Johannesburg Declaration on Sustainable Development and the Plan of Implementation at the World Summit on Sustainable Development, held at Johannesburg in 2002;

Further welcoming the World Summit 2005 Outcome document adopted by the high level Plenary of the Sixtieth Session of the United Nations General Assembly;

Recalling the Nairobi Resolution on Environmental Law and Sustainable Development adopted by the Forty-Fourth Session of AALCO in 2005;

Underlying that climate change is one of the greatest challenges of our time;

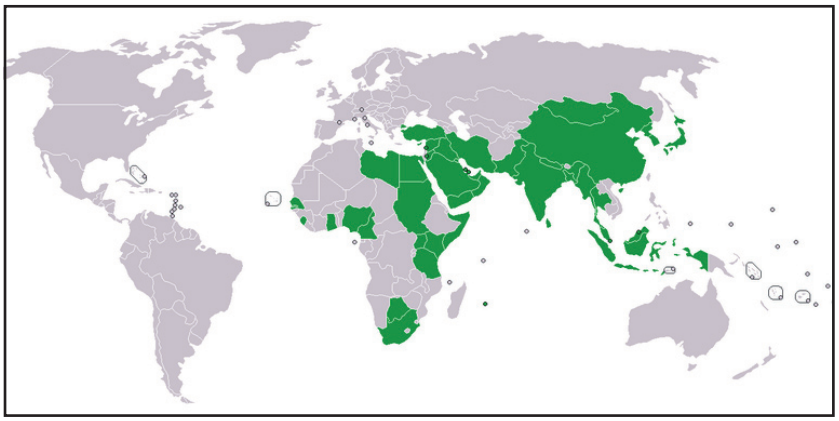
Emphasizing that strong political will to combat climate change in accordance with the principles of the United Nations Framework Convention on Climate Change, especially the principle of common but differentiated responsibilities and respective capabilities is essential;

Recognizing the importance of the on-going Bali Road-Map negotiations for stronger international cooperation on climate change for the period beyond 2012;

Considering the Copenhagen Accord of which the United Nations Climate Change Conference held at Copenhagen, Denmark from 7 to 9 December 2009, took note;

Hoping that the United Nations Climate Change Conference, scheduled to take place at Cancun, Mexico from 29 November to 10 December 2010 would be able to achieve positive outcome for the Bali Road-Map negotiations;

Taking note of the legal instruments within the framework of the African Union, including the Revised version of the African Convention on Nature and Natural Resources adopted by the Assembly of the African Union on 11 July 2003 for the protection of environment and sustainable development;



Asian-African Legal Consultative Organization member States Courtesy: Wikipedia

Appreciating the efforts made by the International Council of Environmental Law in preparing the draft of the International Covenant on Environment and Development;

Conscious of the importance of the conservation of biological diversity for evolution and maintaining life-sustaining systems of the biosphere;

Affirming the importance of the United Nations Convention to Combat Desertification:

1. **Commends** the Government of the United Republic of Tanzania, the International Council of Environmental Law and the AALCO Secretariat for earnest efforts in organizing the Special Meeting on "Environment and Sustainable Development".

2. **Expresses gratitude** to the Panelists who have given valuable insight on the important aspects of the topic on the issues of "Climate Change", the revised version of the African Convention on Nature and Natural Resources and the draft of the International Covenant on Environment and Development.

3. **Urges** Member States to actively participate in the on-going Bali Road-Map negotiations.

4. **Welcomes** the draft of the International Covenant on Environment and Development.

5. **Requests** the Secretary-General of AALCO in consultation with ICEL to develop a programme of work in the field of Environmental Law and Sustainable Development within the framework of the Memorandum of Understanding signed between the AALCO and the International Council of Environmental Law.

6. **Directs** the Secretariat to follow the on-going Bali Road-Map negotiations for stronger international cooperation on climate change for the period beyond 2012.

7. **Further directs** the Secretariat to continue to follow up the progress in the implementation of the outcome of the Johannesburg Summit as well as follow up the progress in the implementation of the United Nations Framework Convention on Climate Change, Convention on Biological Diversity, and the United Nations Convention to Combat Desertification.

8. **Decides** to place this item on the provisional agenda of its Fiftieth Annual Session.

* AALCO/RES/49/SP 2, 8 August 2010. See page 226.

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