



**Governing Council  
of the United Nations  
Environment Programme**

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**Eleventh special session of the Governing Council/  
Global Ministerial Environment Forum**  
Bali, Indonesia, 24–26 February 2010

**Proceedings of the Governing Council/Global Ministerial  
Environment Forum at its eleventh special session**

**Introduction**

1. The eleventh special session of the United Nations Environment Programme (UNEP) Governing Council/Global Ministerial Environment Forum was held at the Bali International Convention Centre in Nusa Dua, Bali, Indonesia, from 24 to 26 February 2010. It was convened in pursuance of section I of Governing Council decision 25/17 of 20 February 2009 and paragraph 5 of General Assembly resolution 40/243 of 18 December 1985, on the pattern of conferences, and in accordance with rules 5 and 6 of the rules of procedure of the Governing Council.

**I. Opening of the session**

2. The eleventh special session was opened at 10 a.m. on Wednesday, 24 February 2010, by a representative of the secretariat who served as master of ceremonies. The proceedings began with a presentation of a short film prepared by the host country with the title “One planet, our responsibility”.

3. Opening statements were made by Mr. Oliver Dulić, Minister of Environment and Spatial Planning of Serbia, and President of the Governing Council; Mr. R. M. Marty Natalegawa, Minister of Foreign Affairs of Indonesia; Mr. Ban Ki-moon, Secretary-General of the United Nations, whose message to the Council/Forum was delivered by Ms. Angela Cropper, Deputy Executive Director of UNEP; Mr. Achim Steiner, Executive Director of UNEP; and Mr. Susilo Bambang Yudhoyono, President of Indonesia.

4. Mr. Dulić, in his opening statement, welcomed the representatives attending the session and expressed appreciation to the Government and people of Indonesia for their hospitality. He said that the topics covered by the agenda of the Council were critical and interlinked, noting that the ministerial consultations would encompass the vital issues of international environmental governance, the green economy and biodiversity and ecosystems. Those environmental challenges were of particular significance in the lead-up to the United Nations Conference on Sustainable Development, which would be held in Brazil in 2012. Since the tenth special session, the consultative group of ministers or high-level representatives on international environmental governance had been established, as called for in Governing Council decision 25/4. The consultative group had held meetings in Belgrade and Rome to discuss the future architecture of international environmental governance and had established the Belgrade process with a view to developing a set of options on international environmental governance, which would be further discussed at the current special session. In concluding, he said that the Council/Forum constituted the core of the global environmental community and that the world would turn to it for guidance and leadership on the ever-increasing environmental problems and emerging

opportunities affecting people all over the planet. It was the responsibility and obligation of UNEP to provide the required leadership to ensure global sustainability.

5. Mr. Natalegawa expressed gratitude that Indonesia had again been entrusted to host a prestigious meeting, observing that the presence of the President of Indonesia reflected the prominence that the country accorded to environmental issues. The meetings preceding the current special session – the simultaneous extraordinary meetings of the conferences of the parties to the Basel, Rotterdam and Stockholm conventions, and the eleventh Global Major Groups and Stakeholders Forum – had generated valuable discussions contributing to the sustainability of the Earth. As the first global meeting of environment ministers since the fifteenth session of the Conference of the Parties to the United Nations Framework Convention on Climate Change, held in Copenhagen in December 2009, the current meeting was of great strategic value and provided a valuable opportunity to engage in discussions that would help achieve successful results at the sixteenth session, to be held in Mexico in November and December 2010.

6. The year 2010 was also important as the International Year of Biodiversity, and in September 2010 a high-level event to review progress on the Millennium Development Goals would take place at Headquarters. That meeting, he said, would serve as a reminder of the importance of the Bali Strategic Plan for Technology Support and Capacity-building, which had proved an indispensable part of any discussions on global environmental management. Lastly, he expressed the hope that the outcome of the current special session would be of benefit to all humankind.

7. The message by the Secretary-General is reproduced in annex IV to the present proceedings.

8. The Executive Director, in his opening statement, said that Balinese hospitality had brought the environment community back to the island on several occasions and that its values, traditions and culture had inspired a number of landmark agreements, including the Bali Strategic Plan, a constant presence in the daily activities of UNEP and at the core of its mandate. The special session followed the simultaneous extraordinary meetings of the conferences of the parties to the Basel, Rotterdam and Stockholm conventions, at which two days of intense negotiation had resulted in enhanced cooperation and coordination and sent an important signal that international environmental governance was not just about negotiating agreements but about implementation and action on the ground to ensure the health of the planet and its people. Saying that the meetings had set an example of what could be attained through multilateralism, he expressed the hope that the mood of positivism and optimism that they had engendered would endure during the special session.

9. Before Mr. Yudhoyono made his statement, the Executive Director presented him with the UNEP Award for Promoting Leadership in Marine Conservation and Management in recognition of Indonesia's leadership in conserving marine ecosystems, including through its contribution to the Coral Triangle Initiative, which represented a globally important example of how regional cooperation could help to protect one of the richest but most vulnerable ecosystems on the planet.

10. In his keynote statement, Mr. Yudhoyono noted how appropriate it was that Governments were convening again in the hall that had hosted the thirteenth session of the Conference of the Parties to the United Nations Framework Convention on Climate Change, in December 2007, which had culminated in the adoption of the Bali Road Map. On behalf of the Government and people of Indonesia, he warmly welcomed representatives attending the session, and expressed the hope that the ambience of Bali would prove inspirational in bringing about the best outcomes. The slogan of the current special session – "One planet, our responsibility" – encapsulated the importance to humankind of renewing its commitment to the protection and preservation of the planet. He drew attention to a number of threats to biodiversity and ecosystems, notably that posed by climate change, and to regional initiatives to counteract those threats, including several mounted by Indonesia.

11. At the same time, he expressed concern at the proliferation of multilateral environmental agreements, which reduced the optimal functioning of each agreement. It was necessary to harness synergies and ensure cohesion in environmental action, reinforcing the capacity of UNEP as the United Nations body for the environment and giving the organization a wider mandate and sufficient funding to carry out that mandate. The global financial crisis had shown that the current model of development was not in line with global needs and needed redesigning to promote sustainable livelihood. Achieving progress in that regard required changing the pattern of production and consumption so that it was based on the sustainable development principle; establishing more ambitious targets to combat biodiversity loss; reorienting development to accommodate the green economy paradigm; adopting a unified concept of global environmental management; and finalizing negotiations on climate change in Mexico later in 2010.

12. In conclusion, he described the Balinese philosophy of harmony between humans and God, between humans and humans, and between humans and the environment. He expressed his deep honour at receiving the award for marine conservation, which recognized the care of the Indonesian people for the environment and would further empower national efforts towards marine conservation. He then declared the meeting open by striking a ceremonial gong.

13. Following that keynote statement, a welcoming song was performed by a Balinese choir, followed by the performance of a song on planetary conservation composed by Mr. Yudhoyono.

## **II. Organization of work**

### **A. Election of officers**

14. As a result of the election of 29 member States of the Governing Council by the General Assembly at its sixty-fourth session, in November 2009, Algeria, which had been represented on the Bureau, had ceased to be a member of the Governing Council as of 1 January 2010. Consequently, the seat of the African group on the Bureau had fallen vacant on 1 January 2010. Accordingly, at the opening meeting of the special session, on 24 February 2010, the Council/Forum elected Mr. Henri Djombo (Congo) Vice-President pursuant to rules 18 and 19 of its rules of procedure.

15. In addition, owing to the departure of Mr. Juan Carlos Cué Vega (Mexico), the member of the Bureau from Latin America and the Caribbean, from his post as the representative to UNEP, the group of Latin American and Caribbean countries informed the secretariat that it would nominate Mr. Luis Javier Campuzano Pina (Mexico) as Vice-President to succeed him.

16. Both officers were elected by acclamation and would serve until the twenty-sixth regular session of the Council/Forum.

### **B. Adoption of the agenda**

17. At its 1st plenary meeting, on the morning of Wednesday, 24 February 2010, the Council/Forum adopted the following agenda for the session, on the basis of the provisional agenda (UNEP/GCSS.XI/1):

1. Opening of the session.
2. Organization of work.
  - (a) Election of officers;
  - (b) Adoption of the agenda;
  - (c) Organization of the session.
3. Credentials of representatives.
4. Emerging policy issues: environment in the multilateral system.
5. Other matters.
6. Adoption of the proceedings.
7. Closure of the session.

### **C. Organization of the session**

18. At its 1st plenary meeting, the Council/Forum considered and approved the organization of work of the session in the light of the recommendations contained in the annotated agenda (UNEP/GCSS/XI/1/Add.1/Rev.1).

19. Pursuant to one of those recommendations, it was decided that the Council/Forum would hold ministerial consultations from the afternoon of 24 February until the morning of Friday, 26 February.

20. The Council/Forum also decided to establish a committee of the whole, chaired by Mr. John Matuszak (United States of America), which would consider agenda items 4 and 5; a drafting group chaired by Mr. Daniel Chuburu (Argentina); and a working group on the outcome document chaired by Mr. Dian Triansyah Djani (Indonesia) and Ms. France Jacovella (Canada).

21. It was further agreed that the Council/Forum would consider agenda items 3 (credentials of representatives), 5 (other matters), 6 (adoption of the proceedings) and 7 (closure of the session) during the plenary meeting on the afternoon of Friday, 26 February.

#### **D. Attendance**

22. The following States members of the Governing Council were represented at the session/forum:<sup>1</sup> Antigua and Barbuda, Argentina, Australia, Bahamas, Bangladesh, Belgium, Brazil, Canada, China, Colombia, Congo, Croatia, Cuba, Czech Republic, Fiji, Finland, France, Gabon, Germany, Guinea, Hungary, India, Indonesia, Iran (Islamic Republic of), Italy, Japan, Kazakhstan, Kenya, Lesotho, Malaysia, Mali, Mauritius, Mexico, Monaco, Mozambique, Netherlands, Pakistan, Republic of Korea, Romania, Russian Federation, Saudi Arabia, Serbia, Somalia, Spain, Switzerland, Tunisia, United Republic of Tanzania, United States of America, Uruguay.

23. The following States not members of the Governing Council but members of the United Nations or members of a specialized agency or of the International Atomic Energy Agency were represented by observers: Afghanistan, Algeria, Armenia, Austria, Bahrain, Barbados, Bhutan, Botswana, Brunei Darussalam, Burkina Faso, Cambodia, Cameroon, Chile, Comoros, Côte d'Ivoire, Democratic People's Republic of Korea, Democratic Republic of the Congo, Denmark, Djibouti, Dominican Republic, Egypt, El Salvador, Estonia, Ethiopia, Georgia, Ghana, Guatemala, Holy See, Iraq, Ireland, Jordan, Kiribati, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lebanon, Libyan Arab Jamahiriya, Lithuania, Madagascar, Maldives, Malta, Marshall Islands, Mongolia, Morocco, Myanmar, Namibia, Nepal, New Zealand, Nigeria, Norway, Oman, Panama, Papua New Guinea, Peru, Philippines, Poland, Portugal, Qatar, Republic of Moldova, Saint Lucia, Samoa, Senegal, Singapore, Slovakia, South Africa, Sudan, Suriname, Swaziland, Sweden, Syrian Arab Republic, Thailand, Timor-Leste, Togo, Turkey, Uganda, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, Venezuela (Bolivarian Republic of), Yemen, Zimbabwe.

24. An observer for Palestine also participated.

25. The following United Nations bodies, secretariat units and convention secretariats were represented: Convention on Biological Diversity, Convention on Migratory Species, Convention on Wetlands of International Importance, Especially as Waterfowl Habitat, Global Environment Facility, Ozone Secretariat, Secretariat of the Multilateral Fund for the Implementation of the Montreal Protocol, United Nations Department of Economic and Social Affairs, United Nations Development Programme, United Nations Economic Commission for Europe, United Nations Framework Convention on Climate Change, United Nations Human Settlements Programme, United Nations Institute of Training and Research, United Nations University, World Food Programme.

26. The following specialized agencies were represented: Food and Agriculture Organization of the United Nations, International Labour Organization, United Nations Educational, Scientific and Cultural Organization, United Nations Industrial Development Organization, World Bank, World Meteorological Organization.

27. The following intergovernmental organizations were represented: African Union Commission, Asian Development Bank, Economic Community of Central African States – Inter-States Pesticides Committee of Central Africa, Commonwealth Secretariat, European Environment Agency, European Union, Intergovernmental Panel on Climate Change, International Union for Conservation of Nature, League of Arab States, Organization for Economic Cooperation and Development, Organization of the Islamic Conference, South Pacific Regional Environment Programme.

28. In addition, a number of non-governmental and civil society organizations were represented by observers.

29. A full list of participants was made available as document UNEP/GCSS.XI/INF/12.

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<sup>1</sup> The current membership of the Governing Council was determined by elections taking place at the 52nd plenary meeting of the sixty-second session of the General Assembly, held on 15 November 2007, the 115th plenary meeting of the sixty-second session, held on 23 July 2008, and the 35th plenary meeting of the sixty-fourth session, held on 3 November 2009 (decisions 62/406 A, 62/406 B and 64/406).

## **E. Nusa Dua Declaration**

30. At the 2nd plenary meeting, on the morning of Friday, 26 February, the Council/Forum adopted the Nusa Dua Declaration. The Declaration can be found in annex I to the present proceedings as decision SS.XI/9.

## **F. President's summary**

31. At the 3rd plenary meeting, on the afternoon of Friday, 26 February, the President of the Council/Forum presented a draft summary of the views expressed during the ministerial consultations on each theme considered during the eleventh special session of the Council/Forum, as contained in document UNEP/GCSS.XI/7. He said that the summary reflected the variety of views expressed during the ministerial consultations, and did not constitute a consensus text. The Council/Forum took note of the President's summary, which is set out in annex III to the present proceedings.

## **G. Report of the Committee of the Whole**

32. The Committee of the Whole held four meetings, under the chairship of Mr. Matuszak, from 24 to 26 February, to consider the agenda items assigned to it. At its 3rd plenary meeting, on the afternoon of Friday, 26 February, the Council/Forum took note of the report of the Committee of the Whole. The report is set out in annex II to the present proceedings.

## **H. Adoption of decisions**

33. At its 3rd plenary meeting, on the afternoon of Friday, 26 February, the Council/Forum adopted the following decisions:

<b>Decision no.</b>	<b>Title</b>
SS.XI/1	International environmental governance
SS.XI/2	United Nations Environment Programme support for Haiti: strengthening environmental response in Haiti
SS.XI/3	Enhanced coordination across the United Nations system, including the Environment Management Group
SS.XI/4	Intergovernmental science-policy platform on biodiversity and ecosystem services
SS.XI/5	Environmental law
SS.XI/6	Follow-up report on the environmental situation in the Gaza Strip
SS.XI/7	Oceans
SS.XI/8	Consultative process on financing options for chemicals and wastes
SS.XI/9	Nusa Dua Declaration

## **III. Credentials of representatives**

34. In accordance with rule 17, paragraph 2, of the rules of procedure, the Bureau examined the credentials of the representatives attending the session. Representatives of 49 of the 58 member States attended the session and their credentials were found to be in order. The President so reported to the Council/Forum, which approved the Bureau's report at its 3rd plenary meeting, on the afternoon of Friday, 26 February.

## **IV. Emerging policy issues: environment in the multilateral system**

### **Executive Director's policy statement**

35. During the 1st plenary meeting the Executive Director delivered his policy statement. He recalled that upon his arrival at UNEP in 2007 member States had expressed a desire for a stronger, more efficient UNEP that delivered better results at the national level and worked more closely with partners inside and outside the United Nations system. What might be termed a "UNEP-plus" approach

that could be accommodated within the existing mandate and financing of UNEP had thus been adopted in the medium-term strategy to 2013.

36. Since then UNEP had made significant progress in a number of areas. The programme of work currently being implemented was fully results-based and supported by a greatly improved budget planning and approval system, while the Bali Strategic Plan for Technology Support and Capacity-building had become a pillar of the continuing UNEP reform process. Responsiveness to country needs had been strengthened by enhancing the staffing, mandate and resources devoted to regional offices, and there was increased emphasis on programme implementation at the local level.

37. UNEP had established a number of partnerships with United Nations system partners such as the Food and Agriculture Organization of the United Nations, the International Labour Organization, the United Nations Development Programme, the United Nations Industrial Development Organization and the United Nations Office for the Coordination of Humanitarian Affairs; with the last-mentioned it was undertaking a post-disaster needs assessment in Haiti following the earthquake of 12 January. The Green Economy Initiative had led to partnerships with Governments, non-governmental organizations, research centres and the private sector. Work around the “green economy” theme had inspired outreach efforts to establish a global discourse.

38. While the relationships between UNEP and the multilateral environmental agreements that it hosted continued to evolve, UNEP had, with the support of environment ministers, worked hard to strengthen those relationships. Being a good custodian, host and supporter of those agreements and investor in them remained a priority for UNEP; an example was its support for the negotiations on a legally binding instrument on mercury.

39. Responding in part to requests from member States, UNEP had redoubled its efforts to provide a sound scientific basis for environmental policy decisions. High-quality scientific products such as the *Climate Change Science Compendium 2009* would form part of the political rationale enabling ministers to show that the investment required to engage with environment issues promised potentially enormous returns. Links to economic analysis were provided by studies such as *The Environmental Food Crisis*, also published in 2009.

40. In closing, he said that, while he believed UNEP had fulfilled its commitments, its resources did not allow it to reach all those who could benefit from its work. He thanked member States for making possible, through increased funding, the organization’s recent achievements. Nevertheless UNEP, along with the United Nations system as a whole, required more support.

## **V. Other matters**

41. One representative announced that Abu Dhabi would play host to a summit known as “Eye on Earth” later in 2010 in cooperation with UNEP and the European Environment Agency. The summit would deal with environmental data issues in an endeavour to achieve the immediate objective of providing quality and timely information to decision makers. He invited all countries to participate.

## **VI. Adoption of the proceedings**

42. The Council/Forum adopted the present proceedings at its 3rd plenary meeting, on the afternoon of 26 February 2010, on the basis of the draft report that had been circulated and on the understanding that the secretariat and the Rapporteur would be entrusted with its finalization.

## **VII. Closure of the session**

43. Following the customary exchange of courtesies, the eleventh special session of the Governing Council/Global Ministerial Environment Forum was declared closed by the President of the Council/Forum at 4.25 p.m. on Friday, 26 February 2010.

## Annex I

### Decisions adopted by the Governing Council/Global Ministerial Environment Forum at its eleventh special session

#### SS.XI/1: International environmental governance

*The Governing Council,*

*Recalling* its decision 25/4 of 20 February 2009, in which it decided to establish a consultative group of ministers or high-level representatives, which was requested to conclude its work and present a set of options for improving international environmental governance to the Governing Council/Global Ministerial Environment Forum at the current session, with a view to providing inputs to the General Assembly,

*Expressing* thanks to the Governments of Serbia and Italy for hosting the meetings of the consultative group in Belgrade and Rome, respectively, and gratitude to the Minister of Environment, Land and Sea of Italy and the Minister of Environment and Mineral Resources of Kenya for co-chairing the consultative group and appreciation to the Executive Director for serving as adviser to the group,

1. *Welcomes with appreciation* the result of the process requested in the above-mentioned decision;

2. *Takes note* of the set of options for improving international environmental governance identified by the consultative group;<sup>1</sup>

3. *Requests* the Executive Director to identify, in full consultation with all Governments through the Committee of Permanent Representatives, the incremental changes in the set of options, within the mandate of the United Nations Environment Programme, that can be immediately implemented during the biennium 2010–2011 and those to be integrated into the development of the programme of work for the period 2012–2013, and to present a report on the matter to the Governing Council/Global Ministerial Environment Forum at its twenty-sixth session;

4. *Invites* the President of the Governing Council to transmit the set of options to the General Assembly at its sixty-fourth session as an input to the continuing process of improving international environmental governance;

5. *Decides* to establish a regionally representative, consultative group of ministers or high-level representatives, inviting each United Nations region to propose between four and six Governments to participate, while remaining open to participation by other interested Governments, and in this regard requests the Executive Director to seek additional extrabudgetary resources to facilitate the further participation of representatives of developing countries in addition to the nominated regional representatives;

6. *Also decides* that the group will have two co-chairs, one from a developing country and one from a developed country, and requests the Executive Director to participate as an adviser to the group, which will also comprise high-level representatives of relevant United Nations agencies, designated through the Environment Management Group;

7. *Requests* the Executive Director, in his capacity as Chair of the Environment Management Group, to invite the United Nations system to provide input to the group, including by assessing gaps, needs and considerations related to how the system is currently achieving the identified objectives and functions for international environmental governance;

8. *Decides* that the group will consider the broader reform of the international environmental governance system, building on the set of options but remaining open to new ideas;

9. *Invites* the consultative group, through the United Nations Environment Programme secretariat, to seek relevant inputs from civil society groups from each region in the process of further strengthening international environmental governance;

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1 UNEP/GCSS.XI/4.

10. *Decides* that the group will conclude its work in a timely fashion and present a final report to the Governing Council at its twenty-sixth session in anticipation of the Council's contribution in time for the second meeting of the open-ended preparatory committee of the United Nations Conference on Sustainable Development and the sixty-fifth session of the General Assembly;

11. *Requests* the Executive Director to seek extrabudgetary resources to facilitate the participation of representatives of developing countries in the group's meetings;

12. *Requests* countries in a position to do so to provide financial support for the participation of representatives of developing countries.

## **SS.XI/2: United Nations Environment Programme support for Haiti: strengthening environmental response in Haiti**

*The Governing Council,*

*Noting with deep concern* the devastating impact of the earthquake of 12 January 2010 on the people, economy and environment of Haiti, and in particular the suffering of Haiti's people,

*Recognizing* the primacy of the Haitian people in the reconstruction and development of their country and the key coordinating role given to the United Nations under the leadership of the country's Government,

*Expressing concern* regarding the disaster's medium-term and long-term social, economic and environmental impacts,

*Noting with concern* the extent to which limitations in capacities for emergency prevention, preparedness, assessment response and mitigation of natural and human-induced disasters in Haiti could further jeopardize progress towards attaining internationally agreed development goals, including those set out in the Millennium Declaration,<sup>1</sup>

*Pursuing* its functions and responsibilities as outlined in General Assembly resolution 2997 (XXVII) of 15 December 1972 to keep under review the world environmental situation,

*Recalling* General Assembly resolution 64/250 of 20 January 2010 and the appeals to all Member States and all relevant organs and bodies of the United Nations system, in addition to international financial institutions and development agencies, to provide speedy, sustainable and adequate support for the relief, early recovery, rehabilitation, reconstruction and development efforts of Haiti,

*Taking into account* the special vulnerabilities of small island developing States in achieving sustainable development and recalling General Assembly resolution 59/311 of 14 July 2005, by which the General Assembly endorsed the Mauritius Declaration for the Further Implementation of the Programme of Action for the Sustainable Development of Small Island Developing States, adopted on 14 January 2005,

*Recalling* its decisions 21/17 of 9 February 2001 and 22/8 of 7 February 2003 on further improvement of environmental emergency prevention, preparedness, assessment, response and mitigation and its decisions 22/13 of 7 February 2003, 23/5 of 25 February 2005 and 24/6 of 9 February 2007 requesting the Executive Director to continue strengthening the support of the United Nations Environment Programme to small island developing States and efforts to mainstream the Mauritius Strategy for the Further Implementation of the Programme of Action for the Sustainable Development of Small Island Developing States into the work of the United Nations Environment Programme,

1. *Welcomes with appreciation* the generous response and strong commitment by Governments, the United Nations system, international financial institutions and the international community to support Haiti and to tackle the broad range of challenges posed by the rehabilitation and reconstruction efforts;

2. *Welcomes* in particular the efforts to date by the United Nations Environment Programme in Haiti to address urgent environmental and post-disaster matters;

3. *Urges* the United Nations Environment Programme to assist actively the people of Haiti and the United Nations country team during the emergency recovery phase, by incorporating

<sup>1</sup> General Assembly resolution 55/2 of 8 September 2000.

environmental needs into the humanitarian flash appeal and environmental considerations into the rehabilitation and reconstruction phases, and underlines the need to structure an environmental agenda for the reconstruction of affected areas in a participatory manner;

4. *Requests* the Executive Director to make every effort to ensure that the United Nations Environment Programme performs its key role in addressing environmental restoration and management, under the overall coordination of the United Nations country team and by taking part in relevant clusters, in particular with regard to human vulnerability and poverty eradication, taking into account the role of integrated coastal-zone management, land-use planning and ecosystems management.

### **SS.XI/3: Enhanced coordination across the United Nations system, including the Environment Management Group**

*The Governing Council,*

*Recalling* section VI of its decision 25/1 of 20 February 2009, on enhanced coordination across the United Nations system, including the Environment Management Group,

*Taking note* of the report of the Executive Director on enhanced coordination across the United Nations system,<sup>1</sup>

*Welcoming* the progress in the implementation of the memorandum of understanding between the United Nations Development Programme and the United Nations Environment Programme and the contribution by the United Nations Environment Programme towards enhanced coordination across the United Nations system at the country level, as presented in the above-mentioned report,

*Welcoming also* the progress by the Environment Management Group in facilitating cooperation across the United Nations system to assist Member States in implementing the environmental agenda, as presented in the above-mentioned report,

1. *Encourages* the Executive Director to take further action to expedite the implementation of the said memorandum of understanding, in particular through the immediate establishment of the joint working group provided for under that memorandum, and requests an annual report to be submitted to the Governing Council/Global Ministerial Environment Forum on progress in the implementation of that memorandum;

2. *Requests* the Executive Director to strengthen further the regional offices to enhance their capacity to participate effectively in the processes at the regional and country levels to mainstream environmental sustainability in common country assessments and United Nations Development Assistance Frameworks, using, when appropriate, planning instruments at the regional and national levels;

3. *Encourages* the Environment Management Group to continue its cooperation, including by working with the United Nations System Chief Executives Board for Coordination and its subsidiary bodies in enhancing:

(a) The promotion of sustainable management practices in the United Nations system, including by making further progress towards climate neutrality and sustainable procurement;

(b) Cooperation in programming environmental activities in the United Nations system in the areas of biodiversity, land degradation and green economy, including by supporting the implementation of the strategic plans of the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa,<sup>2</sup> and the Convention on Biological Diversity, including the post-2010 biodiversity targets, and by assessing how

1 UNEP/GCSS.XI/3.

2 ICCD/COP(8)/16/Add.1.

the United Nations system could more coherently assist countries in making the transition to a green economy;

(c) Coherence in mainstreaming environmental considerations in United Nations operational activities at the country level, in particular by identifying options for the development of a possible United Nations system-wide approach to environmental aspects.

#### **SS.XI/4: Intergovernmental science-policy platform on biodiversity and ecosystem services**

*The Governing Council,*

*Recalling* its main functions and responsibilities set out in General Assembly resolution 2997 (XXVII) of 15 December 1972, under which the Governing Council is, among other things, to promote the contribution of the relevant international scientific and other professional communities to the acquisition, assessment and exchange of environmental knowledge and information and, as appropriate, to the technical aspects of the formation and implementation of environmental programmes within the United Nations system,

*Taking note* of the Millennium Ecosystem Assessment and its follow-up process, the consultative process towards an international mechanism of scientific expertise on biodiversity and decision IX/15 of the Conference of the Parties to the Convention on Biological Diversity,

*Recalling* its decision 25/10 of 20 February 2009,

*Noting* the outcomes of the second ad hoc intergovernmental and multi-stakeholder meeting on an intergovernmental science-policy platform on biodiversity and ecosystem services, held in Nairobi from 5 to 9 October 2009,

*Recognizing* the need to strengthen and improve the science-policy interface for biodiversity and ecosystem services,

*Having considered* the report of the Executive Director on an intergovernmental science-policy platform on biodiversity and ecosystem services,<sup>1</sup>

1. *Invites* Governments and relevant organizations to finalize in 2010 their deliberations on improving the science-policy interface for biodiversity and ecosystem services for the conservation and sustainable use of biodiversity, long-term human well-being and sustainable development;

2. *Requests* the Executive Director to support efforts by Governments and relevant organizations to finalize the above-mentioned deliberations and, in so doing:

(a) To convene, in June 2010, a third and final ad hoc intergovernmental and multi-stakeholder meeting to negotiate and reach agreement on whether to establish an intergovernmental science-policy platform on biodiversity and ecosystem services, subject to the availability of extrabudgetary resources;

(b) To make available to all parties concerned, including participants in the third meeting, the information requested at the second meeting<sup>2</sup> in good time for the third meeting;

(c) To transmit, on behalf of the Governing Council, the outcomes of and necessary documentation from the third and final meeting to the General Assembly at its sixty-fifth session for consideration during the high-level segment on biological diversity in September 2010 and thereafter;

3. *Invites* Governments and organizations in a position to do so to provide extrabudgetary resources for the above-mentioned process;

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1 UNEP/GCSS.XI/7.

2 UNEP/IPBES/2/4/Rev.1, annex, para. 29.

4. *Requests* the Executive Director to cooperate closely with the relevant secretariats of the biodiversity-related multilateral environmental agreements and the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa, multilateral financial institutions and relevant international organizations, in particular the Food and Agriculture Organization of the United Nations, the United Nations Development Programme, the United Nations Educational, Scientific and Cultural Organization and the International Union for Conservation of Nature and Natural Resources, to ensure the full involvement of key stakeholders in the preparation of the third meeting.

## **SS.XI/5: Environmental law**

### **A**

#### **Guidelines for the development of national legislation on access to information, public participation and access to justice in environmental matters**

*The Governing Council,*

*Recalling* Principle 10 of the Rio Declaration on Environment and Development,<sup>1</sup> the Malmö Ministerial Declaration<sup>2</sup> and its decisions 20/4 of 4 February 1999, 20/6 of 5 February 1999, 21/24 of 9 February 2001, 22/17 of 7 February 2003 and 25/11 of 20 February 2009,

*Recalling also* that, as recognized by the Governing Council in its above-mentioned decision 25/11, access to environmental information enhances the transparency of environmental governance and that it is a prerequisite for effective public participation in environmental decision-making; that public participation in environmental decision-making generally improves decision-making and enhances its legitimacy; and that access to justice in environmental matters provides a means for affected parties to gain redress and to assist in the implementation and enforcement of legislation related to the environment,

*Recognizing* that national legislation on access to environmental information, public participation and access to justice in environmental matters contributes to the achievement of environmental sustainability and to the legal empowerment of citizens, including the poor and marginalized,

*Noting with appreciation* the further work carried out by the secretariat on the guidelines for the development of national legislation on access to information, public participation and access to justice in environmental matters,

*Noting also with appreciation* the outcome of the intergovernmental meeting to review and further develop draft guidelines for national legislation on access to information, public participation and access to justice in environmental matters, held in Nairobi on 12 and 13 November 2009,

1. *Adopts* the guidelines for the development of national legislation on access to information, public participation and access to justice in environmental matters, as set out in the annex to the present decision, noting that these guidelines are voluntary;
2. *Decides* that the secretariat shall disseminate the guidelines to all countries, and that the commentary on the guidelines<sup>3</sup> shall also be distributed to all countries for further comments to enhance its quality;
3. *Invites* countries to take the guidelines into consideration in the development or amendment of their national legislation related to the subject matters covered by the guidelines;

1 *Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3–14 June 1992* (United Nations publication, Sales No. E.93.I.8 and corrigenda), vol. I: Resolutions adopted by the Conference, resolution 1, annex I.

2 Governing Council decision SS.VI/I, annex.

3 The commentary has been prepared by the secretariat in consultation with the Senior Advisers Group of the United Nations Environment Programme and has been annexed to the guidelines as indicative reference material. The text of the commentary has not been negotiated by Governments.

4. *Requests* the Executive Director to assist countries, upon their request, subject to the availability of resources and through the programme of work and budget, and, if appropriate, in collaboration with other relevant international and regional organizations, with the development or amendment of national legislation, policies and strategies on access to information, public participation and access to justice in environmental matters;

5. *Also requests* the Executive Director to provide updates on progress through regular reporting on the implementation of the programme of work and budget.

## **Annex to decision SS.XI/5 A**

### **Guidelines for the development of national legislation on access to information, public participation and access to justice in environmental matters**

The purpose of these voluntary guidelines is to provide general guidance, if so requested, to States, primarily developing countries, on promoting the effective implementation of their commitments to Principle 10 of the 1992 Rio Declaration on Environment and Development within the framework of their national legislation and processes. In doing so, the guidelines seek to assist such countries in filling possible gaps in their respective legal norms and regulations as relevant and appropriate to facilitate broad access to information, public participation and access to justice in environmental matters.

The guidelines should not be perceived as recommendations to amend national legislation or practice in cases where existing legislation or practice provides for broader access to information, more extensive public participation or wider access to justice in environmental matters than follows from these guidelines.

#### **I. Access to information**

##### **Guideline 1**

Any natural or legal person should have affordable, effective and timely access to environmental information held by public authorities upon request (subject to guideline 3), without having to prove a legal or other interest.

##### **Guideline 2**

Environmental information in the public domain should include, among other things, information about environmental quality, environmental impacts on health and factors that influence them, in addition to information about legislation and policy, and advice about how to obtain information.

##### **Guideline 3**

States should clearly define in their law the specific grounds on which a request for environmental information can be refused. The grounds for refusal are to be interpreted narrowly, taking into account the public interest served by disclosure.

##### **Guideline 4**

States should ensure that their competent public authorities regularly collect and update relevant environmental information, including information on environmental performance and compliance by operators of activities potentially affecting the environment. To that end, States should establish relevant systems to ensure an adequate flow of information about proposed and existing activities that may significantly affect the environment.

##### **Guideline 5**

States should periodically prepare and disseminate at reasonable intervals up-to-date information on the state of the environment, including information on its quality and on pressures on the environment.

**Guideline 6**

In the event of an imminent threat of harm to human health or the environment, States should ensure that all information that would enable the public<sup>4</sup> to take measures to prevent such harm is disseminated immediately.

**Guideline 7**

States should provide means for and encourage effective capacity-building, both among public authorities and the public, to facilitate effective access to environmental information.

**II. Public participation****Guideline 8**

States should ensure opportunities for early and effective public participation in decision-making related to the environment. To that end, members of the public concerned<sup>5</sup> should be informed of their opportunities to participate at an early stage in the decision-making process.

**Guideline 9**

States should, as far as possible, make efforts to seek proactively public participation in a transparent and consultative manner, including efforts to ensure that members of the public concerned are given an adequate opportunity to express their views.

**Guideline 10**

States should ensure that all information relevant for decision-making related to the environment is made available, in an objective, understandable, timely and effective manner, to the members of the public concerned.

**Guideline 11**

States should ensure that due account is taken of the comments of the public in the decision-making process and that the decisions are made public.

**Guideline 12**

States should ensure that when a review process is carried out where previously unconsidered environmentally significant issues or circumstances have arisen, the public should be able to participate in any such review process to the extent that circumstances permit.

**Guideline 13**

States should consider appropriate ways of ensuring, at an appropriate stage, public input into the preparation of legally binding rules that might have a significant effect on the environment and into the preparation of policies, plans and programmes relating to the environment.

**Guideline 14**

States should provide means for capacity-building, including environmental education and awareness-raising, to promote public participation in decision-making related to the environment.

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4 “The public” may be defined as one or more natural or legal persons and their associations, organizations or groups.

5 “The public concerned” may be defined as the public affected or likely to be affected by, or having an interest in, the environmental decision-making. For the purposes of this definition, non-governmental organizations promoting environmental protection and meeting any requirements under national law should be deemed to have an interest.

### **III. Access to justice**

#### **Guideline 15**

States should ensure that any natural or legal person who considers that his or her request for environmental information has been unreasonably refused, in part or in full, inadequately answered or ignored, or in any other way not handled in accordance with applicable law, has access to a review procedure before a court of law or other independent and impartial body to challenge such a decision, act or omission by the public authority in question.

#### **Guideline 16**

States should ensure that the members of the public concerned have access to a court of law or other independent and impartial body to challenge the substantive and procedural legality of any decision, act or omission relating to public participation in decision-making in environmental matters.

#### **Guideline 17**

States should ensure that the members of the public concerned have access to a court of law or other independent and impartial body or administrative procedures to challenge any decision, act or omission by public authorities or private actors that affects the environment or allegedly violates the substantive or procedural legal norms of the State related to the environment.

#### **Guideline 18**

States should provide broad interpretation of standing in proceedings concerned with environmental matters with a view to achieving effective access to justice.

#### **Guideline 19**

States should provide effective procedures for timely review by courts of law or other independent and impartial bodies, or administrative procedures, of issues relating to the implementation and enforcement of laws and decisions pertaining to the environment. States should ensure that proceedings are fair, open, transparent and equitable.

#### **Guideline 20**

States should ensure that the access of members of the public concerned to review procedures relating to the environment is not prohibitively expensive and should consider the establishment of appropriate assistance mechanisms to remove or reduce financial and other barriers to access to justice.

#### **Guideline 21**

States should provide a framework for prompt, adequate and effective remedies in cases relating to the environment, such as interim and final injunctive relief. States should also consider the use of compensation and restitution and other appropriate measures.

#### **Guideline 22**

States should ensure the timely and effective enforcement of decisions in environmental matters taken by courts of law, and by administrative and other relevant bodies.

#### **Guideline 23**

States should provide adequate information to the public about the procedures operated by courts of law and other relevant bodies in relation to environmental issues.

#### **Guideline 24**

States should ensure that decisions relating to the environment taken by a court of law, or other independent and impartial or administrative body, are publicly available, as appropriate and in accordance with national law.

## Guideline 25

States should, on a regular basis, promote appropriate capacity-building programmes in environmental law for judicial officers, other legal professionals and other relevant stakeholders.

## Guideline 26

States should encourage the development and use of alternative dispute resolution mechanisms where these are appropriate.

## B

### **Guidelines for the development of domestic legislation on liability, response action and compensation for damage caused by activities dangerous to the environment**

*The Governing Council,*

*Recalling* Principle 13 of the Rio Declaration on Environment and Development,<sup>6</sup> which stipulates that States shall develop national law regarding liability and compensation for the victims of pollution and other environmental damage,

*Recognizing* that the existence of national legislation on liability and compensation for environmental damages resulting from human activities has been largely recognized as a significant element for the protection of the environment,

*Recalling* section III of its decision 25/11 of 20 February 2009, entitled “Draft guidelines for the development of national legislation on liability, response action and compensation for damage caused by activities dangerous to the environment”, in which it took note of the draft guidelines and requested the secretariat to carry out further work on the guidelines with a view to their adoption at its next special session,

*Noting with appreciation* the outcome of the intergovernmental meeting to review and further develop draft guidelines for the development of domestic legislation on liability, response action and compensation for damage caused by activities dangerous to the environment, held in Nairobi from 9 to 11 November 2009,

1. *Adopts* the guidelines for the development of domestic legislation on liability, response action and compensation for damage caused by activities dangerous to the environment, as set out in the annex to the present decision, and affirms that these guidelines are voluntary and do not set a precedent for the development of international law;
2. *Requests* the Executive Director to disseminate the guidelines to all countries;
3. *Invites* countries to provide comments on the draft commentary and annexes as contained in the note by the Executive Director on the result of further consultations between Governments following the intergovernmental meeting on the draft guidelines for the development of domestic legislation on liability, response action and compensation for damage caused by activities dangerous to the environment,<sup>7</sup> to enhance the quality of the draft commentary and annexes, with a view to their subsequent distribution;
4. *Also invites* countries to take the guidelines into consideration in the development or amendment of their national legislation related to liability, response action and compensation for damage caused by activities dangerous to the environment;
5. *Requests* the Executive Director to assist countries, upon their request and subject to the availability of resources, with the development or amendment of national legislation, policies and

<sup>6</sup> *Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3–14 June 1992* (United Nations publication, Sales No. E.93.I.8 and corrigenda), vol. I: Resolutions adopted by the Conference, resolution 1, annex I.

<sup>7</sup> UNEP/GCSS.XI/INF/6/Add.2.

strategies on liability, response action and compensation for damage caused by activities dangerous to the environment;

6. *Also requests* the Executive Director to report on progress, including on the draft commentary and annexes as referred to above, through regular reporting on the implementation of the programme of work and budget.

## **Annex to decision SS.XI/5 B**

### **Guidelines for the development of domestic legislation on liability, response action and compensation for damage caused by activities dangerous to the environment<sup>8</sup>**

The purpose of the present guidelines is to highlight core issues that States will have to resolve should they choose to draft domestic laws and regulations on liability, response action and compensation for damage caused by activities dangerous to the environment. The guidelines discuss key elements for possible inclusion in any such domestic legislation and offer specific textual formulations for possible adoption by legislative drafters. It is envisaged that they will be of assistance to, in particular, developing countries and countries with economies in transition, in devising, as they deem appropriate, domestic legislation or policy on liability, response action and compensation.

#### **Guideline 1: Objective**

The objective of the present guidelines is to provide guidance to States regarding domestic rules on liability, response action and compensation for damage caused by activities dangerous to the environment, taking into account the “polluter pays” principle.

#### **Guideline 2: Scope of application**

1. The present guidelines apply to liability, response action and compensation for damage caused by activities dangerous to the environment.
2. They are not intended to apply to damage caused by activities dangerous to the environment that are covered by other domestic laws establishing special liability regimes or that principally relate to national defence, international security or natural disaster management.

#### **Guideline 3: Definitions**

1. The term “activity dangerous to the environment” means an activity or installation specifically defined under domestic law.
2. The term “damage” means:
  - (a) Loss of life or personal injury arising from environmental damage;
  - (b) Loss of or damage to property arising from environmental damage;
  - (c) Pure economic loss;
  - (d) Costs of reinstatement measures, limited to the costs of measures actually taken or to be undertaken;
  - (e) Costs of preventive measures, including any loss or damage caused by such measures;
  - (f) Environmental damage.
3. The term “environmental damage” means an adverse or negative effect on the environment that:
  - (a) Is measurable taking into account scientifically established baselines recognized by a public authority that take into account any other human-induced variation and natural variation;

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<sup>8</sup> The present guidelines have been amended and revised on the basis of the discussions at the intergovernmental meeting to review and further develop draft guidelines for the development of domestic legislation on liability, response action and compensation for damage caused by activities dangerous to the environment, held in Nairobi from 9 to 11 November 2009.

- (b) Is significant, which is to be determined on the basis of factors such as:
- (i) Long-term or permanent change, to be understood as change that may not be redressed through natural recovery within a reasonable period of time;
  - (ii) Extent of the qualitative or quantitative changes that adversely or negatively affect the environment;
  - (iii) Reduction or loss of the ability of the environment to provide goods and services, either of a permanent nature or on a temporary basis;
  - (iv) Extent of any adverse or negative effect or impact on human health;
  - (v) Aesthetic, scientific and recreational value of parks, wilderness areas and other lands.

4. The term “operator” means any person or persons, entity or entities in command or control of the activity, or any part thereof at the time of the incident.

5. The term “incident” means any occurrence or series of occurrences having the same origin that cause damage or create a grave and imminent threat of damage.

6. The term “preventive measures” means any reasonable measures taken by any person in response to an incident to prevent, minimize or mitigate loss or damage, or to undertake environmental clean-up.

7. The term “pure economic loss” means loss of income, unaccompanied by personal injury or damage to property, directly deriving from an economic interest in any use of the environment and incurred as a result of environmental damage.

8. The term “reinstatement measures” means any reasonable measures aiming to assess, reinstate, remediate or restore damaged or destroyed components of the environment.

9. The term “response action” means preventive measures and reinstatement measures.

#### **Guideline 4: Response action**

1. Should an incident arise during an activity dangerous to the environment, the operator should take prompt and effective response action.

2. The operator should promptly notify the competent public authority of the incident and the response action planned or taken and its effectiveness or expected effectiveness.

3. The competent public authority should be entitled to obtain from the operator all relevant information related to the incident. It may also order the operator to take specific response action that it deems necessary.

4. If the operator fails to take response action or such action is unlikely to be effective or timely, the competent public authority may take such action itself or authorize a third party to take such action and recover the costs from the operator.

#### **Guideline 5: Liability**

1. The operator should be strictly liable for damage caused by activities dangerous to the environment.

2. Without prejudice to paragraph 1, any person should be liable for damage caused or contributed to by not complying with applicable statutory or regulatory requirements or through wrongful, intentional, reckless or negligent acts or omissions. A violation of a specific statutory obligation should be considered fault per se.

#### **Guideline 6: Exoneration from liability**

1. Without prejudice to additional exoneration provisions provided for in domestic law, the operator should not be liable, or in the case of subparagraph (c) below not liable to the degree not apportioned to him or her, if the operator proves that the damage was caused:

(a) By an act of God/force majeure (caused by natural phenomena of an exceptional, inevitable and uncontrollable nature);

- (b) By armed conflict, hostilities, civil war, insurrections or terrorist attacks;
- (c) Wholly or in part by an act or omission by a third party, notwithstanding safety measures appropriate to the type of activity concerned but, in the case of claims for compensation, only if the damage caused was wholly the result of wrongful intentional conduct of a third party, including the person who suffered the damage;
- (d) As a result of compliance with compulsory measures imposed by a competent public authority.

2. In relation to paragraph 4 of guideline 4, exonerations additional to those referred to in subparagraphs 1 (a)–(d) above or mitigating factors may include:

- (a) That the activity was expressly authorized and fully in conformity with an authorization, given under domestic law, that allows the effect on the environment;
- (b) That the damage was caused by an activity which was not likely to cause damage according to the state of scientific and technical knowledge at the time that the activity was carried out.

3. The operator may be exonerated wholly or in part towards a claimant if the operator proves that the damage resulted from the claimant's act or omission done with intent to cause damage, or that the damage resulted wholly or in part from the claimant's negligence.

### **Guideline 7: Joint and several liability**

In the event of multiple operators their liability should be joint and several, or apportioned, as appropriate.

### **Guideline 8: Claims for compensation**

1. Any person or group of persons, including public authorities, should be entitled to claim compensation for loss of life or personal injury, loss of or damage to property and pure economic loss in consequence of the occurrence of damage caused by activities dangerous to the environment in addition to, where appropriate, the reimbursement of the costs of preventive measures and reinstatement measures.
2. Domestic law may allow claims for compensation for environmental damage.

### **Guideline 9: Other claims**

1. Any person or group of persons should be entitled to seek response action by competent public authorities if neither the operator nor the competent public authorities concerned are taking prompt and effective measures to redress environmental damage, provided that the person or group of persons has a sufficient interest or suffers the impairment of a right if so required by domestic law.
2. Any person or group of persons within the meaning of paragraph 1 above should have the right to challenge in administrative or judicial proceedings the legality of any act or omission by private persons or public authorities that contravenes domestic laws or regulations relating to damage caused by activities dangerous to the environment.
3. Any person or group of persons sustaining damage should be entitled to any information directly relevant to the presentation of a claim for compensation from the operator or the competent public authority in possession of such information, unless such disclosure is specifically prohibited by law or violates the legally protected interests of third parties.

### **Guideline 10: Financial limits**

1. Liability pursuant to guideline 5, paragraph 1, may be limited in accordance with criteria established under any applicable domestic classification scheme for activities dangerous to the environment.
2. Given that the operator might be unable to meet his or her liability or that actual damages might exceed the operator's limit of liability, domestic law may provide for closure of potential compensation gaps by way of special funding or collective compensation mechanisms.
3. There should be no financial limit on liability arising under guideline 5, paragraph 2.

### **Guideline 11: Financial guarantees**

1. The operator should, taking into account the availability of financial guarantees, be encouraged or required to cover liability under guideline 5, paragraph 1, for amounts not less than the minimum specified by law for the type of activity dangerous to the environment concerned and should continue to cover such liability, during the period of the time limit of liability, by way of insurance, bonds or other financial guarantees.

2. The competent public authority should periodically review the availability of and the minimum limits for financial guarantees, taking into account the views of relevant stakeholders, including the specialized and general insurance industry.

### **Guideline 12: Time limits for presentation of claims**

1. Domestic law should establish that claims for compensation are inadmissible unless they are brought within a certain period of time from the date the claimant knew or ought to have known of the damage and the identity of the operator. In addition, claims should be inadmissible unless they are brought within a certain period of time following the occurrence of the damage.

2. Where the damage-causing incident is a series of occurrences having the same origin, the time limits established under the present guideline should run from the last of such occurrences. Where the damage-causing incident consists of a continuous occurrence, such time limits should run from the end of that continuous occurrence.

### **Guideline 13: Claims with foreign elements: applicable law**

1. Subject to domestic laws on jurisdiction and in the absence of special rules established by contract or international agreement, any claim for compensation that raises a choice-of-law issue should be decided in accordance with the law of the place in which the damage occurred, unless the claimant chooses to base the claim on the law of the country in which the event giving rise to the damage occurred.

2. The timing of the claimant's choice pursuant to paragraph 1 should be determined by the law of the forum.

### **Guideline 14: Classification of hazardous substances and activities or installations**

1. Domestic law should provide for lists of hazardous substances and their threshold quantities, activities or installations dangerous to the environment, to make apparent the nature and scope of operators' risk of environmental liability and thereby strengthen the insurability of the risk of damage.

2. To enhance their effectiveness, such lists should be exhaustive rather than indicative and give due recognition to domestic priorities, in particular social and economic needs, environmental and public health sensitivities or other special circumstances.

### **SS.XI/6: Follow-up report on the environmental situation in the Gaza Strip**

*The Governing Council,*

*Recalling* decision GCSS.VII/7 of 15 February 2002, on the environmental situation in the occupied Palestinian territories, and decision 25/12 of 20 February 2009, on the environmental situation in the Gaza Strip,

*Having considered* the report of the Executive Director on the environmental situation in the Gaza Strip,<sup>1</sup>

1. *Requests* the Executive Director to take the necessary measures, within the organization's mandate and available resources and in coordination with the relevant United Nations country team, to assist in the implementation of the recommendations contained in the report entitled

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1 UNEP/GCSS.XI/9.

“Environmental Assessment of the Gaza Strip following the escalation of hostilities in December 2008 – January 2009”;

2. *Invites* Governments, United Nations system entities and international financial institutions to provide financial, technical and logistical support and assistance to ensure the success of the further work of the United Nations Environment Programme in the Gaza Strip.

## **SS.XI/7: Oceans**

*The Governing Council,*

*Recognizing* that oceans and coasts provide valuable resources and services to support human populations, particularly coastal communities that depend heavily thereon, and that the sustainable use of marine and coastal resources will enhance global food security and contribute towards poverty reduction for present and future generations,

*Concerned* about marine and coastal ecosystems being affected by sea-level rise, increased water temperatures, ocean acidification, changing weather patterns, and other variations that may result from climate change, in addition to the decrease in fish stocks, and about how these changes may aggravate the existing pressures of marine and coastal environmental degradation and increase risks to global food security and human well-being, thereby affecting the attainment of the Millennium Development Goals and other internationally agreed development goals,

*Expressing concern* at the degradation of marine and coastal ecosystems, in particular the loss of their biodiversity and the continued threats to that biodiversity from land-based and sea-based pollution, the increase of hypoxic zones, the growth of harmful algal blooms and invasive alien species, the unsustainable use of marine and coastal resources, including the over-exploitation of fish stocks, the physical alteration of ecosystems, poor land-use planning and social and economic pressures,

*Recalling* the United Nations Convention on the Law of the Sea as the instrument that sets out the legal framework within which all activities pertaining to the oceans and seas must be carried out, the United Nations Framework Convention on Climate Change and its Kyoto Protocol, the Convention on Biological Diversity and the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter and its 1996 Protocol,

*Taking note* of the work undertaken by the United Nations Environment Programme on oceans, especially through its regional seas programme and the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities,

*Recalling* the commitment made at the World Summit on Sustainable Development to encourage the application by 2010 of the ecosystem approach for the sustainable development of the oceans,

*Welcoming* the successful outcome of the World Ocean Conference, held in Manado, Indonesia, in May 2009, at which participants took up the issue of threats to the oceans, the adverse effects of climate change on the oceans and the role of oceans in climate change, and adopted the Manado Ocean Declaration,

*Acknowledging* the importance of achieving an overall long-term vision that ensures prosperous and healthy ocean and coastal environments providing for conservation, productivity and sustainable resource use,

1. *Requests* the Executive Director to strengthen further the work of the United Nations Environment Programme regarding the protection and sustainable management of marine and coastal ecosystems and to mainstream the United Nations Environment Programme marine and coastal strategy into the implementation of the programme of work and the medium-term strategy for the period 2010–2013, subject to availability of resources;

2. *Also requests* the Executive Director to extend United Nations Environment Programme cooperation and engagement with other relevant United Nations agencies to support the implementation of the Manado Ocean Declaration in tackling the current state of the world’s oceans while contributing to improving human well-being, including promoting diversified sustainable livelihood options for coastal communities;

3. *Further requests* the Executive Director to support and enhance developing countries’ capacity to manage marine and coastal ecosystems sustainably in the context of the Bali Strategic Plan for Technology Support and Capacity-building, and in line with the programme of work and budget;

4. *Urges* Governments to achieve the long-term conservation, management and sustainable use of marine resources and coastal habitats through the appropriate application of the precautionary and ecosystem approaches, and to implement long-term strategies in meeting internationally agreed sustainable development goals, including those contained in the United Nations Millennium Declaration<sup>1</sup> and those in the Mauritius Strategy for the Further Implementation of the Programme of Action for the Sustainable Development of Small Island Developing States<sup>2</sup> that are related to the marine environment, and in so doing strengthen global partnerships for development;

5. *Invites* Governments to develop and implement national strategies for the sustainable management of marine and coastal ecosystems, in line with national adaptation and sustainable development strategies, in particular for mangroves, coastal wetlands, seagrasses, estuaries and coral reefs, which deliver valuable ecosystem goods and services as protective and productive buffer zones that have significant potential to combat the adverse effects of climate change;

6. *Calls upon* Governments to reduce the land-based and sea-based pollution of ocean and coastal areas, including marine waste, and to promote the sustainable management of fisheries, in accordance with relevant international agreements and codes of conduct to enhance the health and resilience of marine and coastal ecosystems;

7. *Calls upon* Governments, international organizations and oceanographic institutions and other research and development agencies to enhance and promote research, systematic observation, knowledge management, capacity-building, information and data exchange related to vulnerability and risk assessment of climate change impacts on marine ecosystems, communities, fisheries and other marine-related industries; emergency preparedness, monitoring and forecasting climate change and ocean variability; and improving public awareness of early-warning system capacity;

8. *Invites* Governments and international and regional financial institutions to make coordinated efforts to support developing countries in implementing marine and coastal initiatives, including within the United Nations Environment Programme, at the national, regional and global levels;

9. *Requests* the Executive Director to report, insofar as available resources permit it, on the activities undertaken by the United Nations Environment Programme to implement the present decision to the Governing Council/Global Ministerial Environment Forum at its twenty-sixth session.

### **SS.XI/8: Consultative process on financing options for chemicals and wastes**

*The Governing Council,*

*Recognizing* the need for heightened efforts to increase the political priority accorded to the sound management of chemicals and wastes and the increased need for sustainable, predictable, adequate and accessible financing for the chemicals and wastes agenda,

*Also recognizing* the need to look at the sound management of chemicals and wastes not only as a financial burden but also as a possible pathway to the generation of economic growth,

*Recalling* the proposal by the Executive Director that a consultative meeting of Governments and other stakeholders should be held prior to and in preparation for the eleventh special session of the United Nations Environment Programme Governing Council/Global Ministerial Environment Forum and the planned simultaneous extraordinary meetings of the conferences of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade and the Stockholm Convention on Persistent Organic Pollutants with the purpose of analysing the current state of affairs and devising strategic, synergistic proposals on financing chemicals management,<sup>3</sup>

*Highlighting* the positive effects of synergistic initiatives among the conventions related to chemicals and wastes, the Strategic Approach to International Chemicals Management and the United

1 General Assembly resolution 55/2 of 8 September 2000.

2 *Report of the International Meeting to Review the Implementation of the Programme of Action for the Sustainable Development of Small Island Developing States, Port Louis, Mauritius, 10–14 January 2005* (United Nations publication, Sales No. E.05.II.A.4 and corrigendum), chap. I, resolution 1, annex II.

3 UNEP/POPS/COP.4/38, para. 193.

Nations Environment Programme,

*Stressing* the relevance for the development of capacities and the transfer of technology regarding chemicals and wastes-related issues of the regional and subregional centres of the Basel and Stockholm conventions and the regional offices of the United Nations Environment Programme,

*Recalling* the need to address the chemicals and wastes agendas in the broader context of sustainable development and the achievement of the Millennium Development Goals, including by linking them to public health, poverty reduction and creation of economic opportunities,

1. *Welcomes* the establishment of a consultative process on financing options for chemicals and wastes and the work carried out by the United Nations Environment Programme to date in this regard;

2. *Reminds* the Secretariat, in order to enhance the effective participation of invited parties and stakeholders in the discussions, to distribute all necessary documents relevant to the consultative process in a reasonable time and in any event no less than five weeks prior to any future meeting related to this process held under the auspices of the United Nations Environment Programme;

3. *Takes note* of the preliminary findings set out in the desk study on financing options for chemicals and wastes;<sup>4</sup>

4. *Requests* the Executive Director to continue leading the consultative process and suggests drawing more on the experience of the multilateral environmental agreements and the work of the International Conference on Chemicals Management, the Global Environment Facility, the United Nations Development Programme, the World Bank and other relevant organizations;

5. *Also requests* the Executive Director, in preparing documents for the next stage of the consultative process, to ensure that the comments and the contributions of Governments, in particular participating invited parties and stakeholders at the second meeting of the consultative process on financing options for chemicals and wastes, held in 2009 in Bangkok, are incorporated into a revised version of the note by the Executive Director on financing the chemicals and wastes agenda<sup>5</sup> and into the action-oriented summary of policy options for financing chemicals and wastes;<sup>6</sup>

6. *Recommends* that the consultative process should consider, among other things, the financial challenges faced by developing countries and countries with economies in transition to implement their chemicals and wastes agendas effectively;

7. *Requests* the Executive Director to report on the progress made and the direction of the consultative process on financing options for chemicals and wastes to relevant intergovernmental processes, including to the conferences of the parties to the Basel, Rotterdam and Stockholm conventions at their meetings in 2011; to the Commission on Sustainable Development at its nineteenth session, in 2011; to participants in the preparatory meetings for the third session of the International Conference on Chemicals Management; and to the governing bodies of the Global Environment Facility, with the aim of providing a final report for consideration by the Governing Council/Global Ministerial Environment Forum at its twelfth special session, in 2012, and of achieving possible decisions at the third session of the International Conference on Chemicals Management, in 2012, and at the twenty-seventh session of the Governing Council, in 2013;

8. *Also requests* the Executive Director, in collaboration with relevant partners, to launch initiatives to raise awareness of the importance of the sound management of chemicals and wastes, using various avenues, including the media and key international opportunities such as intergovernmental meetings and public events at both the national and international levels;

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4 UNEP/GCSS.XI/INF/8.

5 Ibid.

6 UNEP/GCSS.XI/INF/8/Add.1.

9. *Invites* Governments and other interested parties, including the private sector, to provide financial and in-kind support to this process and to awareness-raising initiatives;

10. *Requests* the Executive Director to report to the Governing Council/Global Ministerial Environment Forum at its twenty-sixth session on the implementation of the present decision.

### **SS.XI/9: Nusa Dua Declaration**

*The Governing Council*

*Adopts* the Declaration, as below:

#### **Nusa Dua Declaration**

1. We, the ministers and heads of delegation of the United Nations Environment Programme Global Ministerial Environment Forum, met in Bali, Indonesia, from 24 to 26 February 2010, for the eleventh special session of the Global Ministerial Environment Forum, celebrating 10 years since the Malmö Ministerial Declaration of 2000.<sup>1</sup>

2. We are deeply concerned that our planet is confronted by climate change and other environmental and development crises. Current environmental challenges depend on global partnerships for solutions and represent opportunities for individuals, local communities and businesses and for international cooperation.

3. We remain committed to strengthening the role of the United Nations Environment Programme as the leading global environmental authority that sets the global environmental agenda, that promotes the coherent implementation of the environmental dimension of sustainable development within the United Nations system, and that serves as an authoritative advocate for the global environment, as set out in the Nairobi Declaration on the Role and Mandate of the United Nations Environment Programme of 1997.<sup>2</sup>

#### **A. Climate change**

4. We recognize the scientific view as documented by the Intergovernmental Panel on Climate Change in its fourth assessment report that deep cuts in global emissions are required to hold the increase in global temperatures below 2° C, and in this regard we reaffirm the importance of tackling climate change issues in accordance with the principle of common but differentiated responsibilities and respective capabilities and our determination to engage in efforts towards the resolution of such issues through enhanced international cooperation.

5. In this context, we welcome decision 1/CP.15 of the Conference of the Parties to the United Nations Framework Convention on Climate Change, by which the parties decided to extend the mandate of the Ad Hoc Working Group on Long-term Cooperative Action; decision 1/CMP.5 of the Meeting of the Parties to the Kyoto Protocol, by which the parties requested the Ad Hoc Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol to continue its work; and decision 2/CP.15, by which the parties took note of the Copenhagen Accord of 18 December 2009.

6. We reaffirm our commitment to the United Nations Framework Convention on Climate Change process and our commitment to work constructively towards a comprehensive agreed outcome within this process by the end of 2010.

#### **B. Sustainable development**

7. We welcome the decision to organize the United Nations Conference on Sustainable Development in 2012. We support and encourage the active and effective participation of the United Nations Environment Programme in the preparatory process for the Conference on Sustainable Development as called for in General Assembly resolution 64/236 of 24 December 2009, and the full and effective contribution of the United Nations Environment Programme to the programme of work outlined for the eighteenth and nineteenth sessions of the Commission on Sustainable Development.

1 Governing Council decision SS.VI/I, annex.

2 Governing Council decision 19/1, annex. Adoption by the General Assembly: *Official Records of the General Assembly, Fiftieth Session, Supplement No. 25 (A/50/25)*, chap. IV, annex.

## **C. International environmental governance and sustainable development**

8. We note that the current international environmental governance architecture has many institutions and instruments and has become complex and fragmented. It is therefore sometimes not as effective and efficient as it should be. We commit ourselves to further efforts to make it more effective.

9. We appreciate the work of the consultative group of ministers or high-level representatives in presenting a set of options for improving international environmental governance and welcome the establishment of a process to be led by ministers or their high-level representatives to address international environmental governance reforms further. In this regard, we will send the outcomes of this work to the President of the General Assembly and as a contribution to the preparatory committee of the Conference on Sustainable Development.

10. We welcome the activities undertaken by the United Nations Environment Programme and the secretariats of the multilateral environmental agreements, at the behest of the parties to those agreements, in particular the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade and the Stockholm Convention on Persistent Organic Pollutants, to enhance cooperation and coordination between the three conventions and to support Governments in their efforts to implement, comply with and enforce the multilateral environmental agreements.

11. We also welcome the outcome of the simultaneous extraordinary meetings of the conferences of the parties to the Basel, Rotterdam and Stockholm conventions, and we appreciate the consultative process on financing options for chemicals and wastes and support further efforts through the United Nations Environment Programme to continue these discussions.

12. We recognize the importance of enhancing synergies between the biodiversity-related conventions, without prejudice to their specific objectives, and encourage the conferences of the parties to the biodiversity-related multilateral environmental agreements to consider strengthening efforts in this regard, taking into account relevant experiences.

## **D. Green economy**

13. We acknowledge that the advancement of the concept of a green economy in the context of sustainable development and poverty eradication can significantly address current challenges and deliver economic development opportunities and multiple benefits for all nations. We also acknowledge the important leading role of the United Nations Environment Programme in discussions on further defining and promoting the concept of a green economy. We encourage the Executive Director to contribute this work to the preparatory committee for the Conference on Sustainable Development and to convey the lessons already learned by the United Nations Environment Programme in this effort.

14. We urge the Executive Director to implement fully the Bali Strategic Plan for Technology Support and Capacity-building and invite all other relevant organizations to mainstream the plan in their overall activities, to enable developing countries and countries with economies in transition to benefit fully from the achievements of its objectives and the advancement of the concept of a green economy.

## **E. Biodiversity and ecosystems**

15. We acknowledge that biodiversity is at the core of human existence; it is threatened by rapid global change and is under pressure from ecosystem degradation and change.

16. We recognize that the International Year of Biodiversity in 2010 presents a unique opportunity to tackle biodiversity loss and to raise public awareness for achieving the three objectives of the Convention on Biological Diversity and the 2010 biodiversity target, and also to reinforce the importance of promoting actions at national, regional and international levels for achieving the three objectives and the target.

17. We are committed to finalizing deliberations on improving the science-policy interface for biodiversity and ecosystem services in 2010 and in so doing negotiating and reaching agreement on whether to establish an intergovernmental science-policy platform on biodiversity and ecosystem services. We also welcome the commitment made by the parties to the Convention on Biological

Diversity to finalize an international regime on access and benefit sharing in 2010 in accordance with decision IX/12 of the Conference of the Parties to the Convention.

18. We also encourage the United Nations Environment Programme to continue to play a leadership role in advancing understanding of the economics of biodiversity and ecosystems services and its policy implications, through the study “The economics of ecosystems and biodiversity”.

19. We encourage and support efforts by the United Nations Environment Programme to contribute to the high-level meeting on biodiversity at the sixty-fifth session of the General Assembly in 2010, as a contribution to the International Year of Biodiversity, and to the high-level plenary meeting of the sixty-fifth session of the General Assembly in 2010 to review progress towards attaining the Millennium Development Goals, in particular in relation to environmental goals and targets, and towards ensuring environmental sustainability in poverty eradication.

ADVANCE

## Annex II

### Report of the Committee of the Whole

**Rapporteur: Mr. Alexis Minga (Congo)**

#### Introduction

1. At the 1st plenary meeting of its eleventh special session, on the morning of 24 February 2010, the United Nations Environment Programme (UNEP) Governing Council/Global Ministerial Environment Forum decided to establish a committee of the whole to consider agenda items 4 and 5. The Committee was also to consider draft decisions prepared by the Committee of Permanent Representatives to UNEP and proposed for adoption by the Council/Forum, which were contained in a compilation prepared by the Committee of Permanent Representatives.
2. The Committee of the Whole held four meetings from 24 to 26 February 2010 and was chaired by Mr. John Matuszak (United States of America) in accordance with the decision of the Council/Forum taken at its 1st plenary meeting. The Committee elected Mr. Alexis Minga (Congo) to serve as Rapporteur of its meetings.

#### I. Organization of work

3. The Committee agreed to follow the programme of work set out in a conference room paper circulated to Committee members at its 1st meeting.
4. In considering the items entrusted to it, the Committee had before it the documentation outlined for each item in the annotated agenda for the current session (UNEP/GCSS.XI/1/Add.1/Rev.1).
5. Ms. Angela Cropper, Deputy Executive Director of UNEP, welcomed the members of the Committee and expressed thanks to the host Government on behalf of Mr. Achim Steiner, Executive Director of UNEP. She stressed that the heavy agenda facing the Committee constituted an opportunity to restore faith in international governance, the United Nations system and multilateralism after the disappointment of the fifteenth session of the Conference of the Parties to the United Nations Framework Convention on Climate Change, held in Copenhagen in December 2009. She drew attention to the issues facing the Committee: international environmental governance; biodiversity and ecosystem services; Haiti; the environmental situation in the Gaza Strip; environmental law; oceans; financing options for chemicals and wastes; and a possible ministerial declaration, statement or communiqué that would draw upon discussions in the Committee. She explained what was expected under each item and expressed the hope that the special session could be closed on Friday in the knowledge that representatives had gone the extra mile to protect the planet for future generations.

#### II. Emerging policy issues: environment in the multilateral system

##### A. Intergovernmental science-policy platform on biodiversity and ecosystem services

6. The Committee took up the issue at its 1st meeting, on the afternoon of Wednesday, 24 February 2010, with an introduction by the representative of the secretariat, who noted that two meetings on a proposed intergovernmental science-policy platform on biodiversity and ecosystem services had been held to date and that the draft decision before the Committee was intended to authorize the Executive Director to hold a third, and possibly final, such meeting.
7. In the ensuing discussion, all the representatives who took the floor noted the severity of biodiversity loss and the need for urgent action, with some remarking that the designation of 2010 as the International Year of Biodiversity and the high-level segment on biodiversity of the General Assembly would provide additional impetus for efforts to protect biodiversity. Representatives agreed that a mechanism was necessary as it would, among other things, provide relevant credible scientific knowledge and information to assist in decision-making and contribute to the promotion of sustainable

development. They also agreed that a third meeting should be convened to discuss the matter further, with some stressing that that meeting should be the last in the series.

8. Representatives differed, however, on the nature of the proposed mechanism. Some suggested a free-standing body, akin to the Intergovernmental Panel on Climate Change, that could provide support to all bodies that required it, while others warned of the danger of duplicating the work of other bodies, such as the Subsidiary Body for Scientific, Technical and Technological Advice of the Convention on Biological Diversity, and suggested that any new mechanism could fall under the auspices of existing bodies or complement their work.

9. One representative pointed out a number of areas on which agreement was yet to be achieved, calling for the relationship between the proposed mechanism and any existing bodies to be clarified. Stressing that many Governments were currently unable to meet their financial obligations to existing bodies, she suggested that sources of sustainable funding should be assured before any new mechanism was established.

10. A number of representatives provided comments on what they thought should be the characteristics of the proposed mechanism. It was suggested, for example, that the mechanism should have a rigorous peer-review process and consider the feasibility of nested assessments, and that it should be multidisciplinary, policy-responsive but not policy-prescriptive, and independent of political pressure. One representative said that the two principal functions of the mechanism should be to provide capacity-building and undertake scientific assessments, with strengthening of institutions and generation of scientific research capacity in developing countries at the core of the process. Another representative noted that developing countries should benefit from the process and not be compelled to bear any additional burden. Their broader and deeper participation in the process should be ensured.

11. One representative, speaking on behalf of a group of countries, stressed that the documentation for any third meeting should be made available in good time and that there was a need to involve as many stakeholders as possible, including relevant United Nations agencies and the secretariats of biodiversity-related multilateral environmental agreements. Another representative called for the involvement of civil society in that regard, particularly with a view to integrating traditional and indigenous knowledge, which a number of representatives recognized as crucial to the proposed mechanism. One representative called for the participation of megadiverse countries.

12. Responding to comments made, the representative of the secretariat said that the secretariat was planning to schedule two preparatory meetings, one for the African region and the other for Central and Eastern Europe and Central Asia, in the lead-up to the possible third meeting, provided that the necessary funding was secured. He assured representatives that the relevant documentation would be made available well in advance of the third meeting and that the secretariat had already held preliminary talks with stakeholders that, according to representatives, should be involved in the process.

13. Following that discussion, the Committee requested the drafting group established by the Council/Forum at its first plenary meeting to consider the matter and to finalize the draft decision on a proposed intergovernmental science-policy platform on biodiversity and ecosystem services.

14. The Committee approved the draft decision, as amended by the drafting group, for consideration and possible adoption by the Council/Forum.

## **B. Progress report on mercury**

15. The Committee took up the issue at its 1st plenary meeting, on the afternoon of Wednesday, 24 February. Introducing the item, the representative of the secretariat expressed her gratitude to the Government of Sweden and to the Nordic Council of Ministers for the generous support that they were providing for the organization of the first session of the intergovernmental negotiating committee to prepare a global legally binding instrument on mercury, to be held in Stockholm from 7 to 11 June 2010. Noting that further pledges to meet the targeted sum of \$12.5 million for the negotiation process were being received, she called for continued support for the process. She added that the voluntary activities would provide an important input to the negotiations and that Governments were encouraged to participate in the partnerships.

16. All representatives who took the floor expressed appreciation for the Executive Director's progress report on mercury. One representative acknowledged the support provided by UNEP to regional groups in their preparation for the negotiations. While he supported the negotiation process, he stated his view that a voluntary approach to controlling mercury pollution was a preferable option,

citing in that context national efforts to curb mercury emissions. Drawing attention to the recent and significant progress achieved in harnessing synergies between the Basel, Rotterdam and Stockholm conventions, he voiced his concern that a new instrument was about to be negotiated for a single chemical, a process that appeared to run counter to the synergies exercise. He highlighted the need, in the negotiation of a mercury instrument, to keep in mind the significant financial impact that such an instrument would have on various sectors of industry in many countries.

17. Many representatives expressed support for the negotiation process and the global mercury partnership. Several said that strong provisions on technical and financial assistance had to be elaborated to help developing countries meet any obligations imposed by a mercury instrument. Some voiced their concern at the increasing burden placed on developing countries by their obligations under multilateral environmental agreements and, in that context, one representative underlined the need to develop a sound implementation mechanism.

18. One representative recalled the urging by environment ministers that the synergies process should also extend to the mercury negotiations and that a strong single framework should be put in place to avoid further fragmentation of chemicals work. Another reiterated his request that the secretariat, in planning meetings of the negotiating committee, should endeavour to avoid regional holiday periods, as had been agreed in Governing Council decision 25/5. In addition, the secretariat was urged to secure support that would enable developing-country participation throughout the entirety of all meetings in the process.

19. The Committee took note of the progress report on mercury.

### **C. Policy options for financing the chemicals and wastes agenda**

20. The Committee took up the issue at its 1st plenary meeting, on the afternoon of Wednesday, 24 February, with an introduction by the representative of the secretariat, who drew attention to the draft decision and documentation before the Committee.

21. Several representatives commended the Executive Director on his initiative to launch a consultative process and also on the documents relating to the issue, which laid out a number of options for financing the chemicals and wastes agenda, and expressed their support for the consultative process. Several welcomed the draft decision on the item, set out as decision 7 in the compilation of draft decisions, some adding that it would formalize a process that to date had been relatively informal. Some representatives stressed that the draft decision should be a procedural one to avoid prejudging the outcome of the process.

22. Some representatives highlighted the increasing challenges faced by developing countries in tackling the chemicals and wastes sector, noting that economic growth inevitably entailed increased chemical use and waste generation. The obligations that those countries had to meet under multilateral environmental agreements were also growing. One representative said that, while meeting those obligations was essentially a national responsibility, developing countries were in need of financial resources to elaborate the necessary environmental legislation and associated tools and stressed the need for increased resources for that purpose. He expressed concern at the proposed option to extend the mandate of the Multilateral Fund for the Implementation of the Montreal Protocol, as that might result in diluting the efficacy of that facility, and suggested that a comparable but separate system might be envisaged instead.

23. One representative voiced his concern at the late receipt of the desk study on financing options and called for all meeting documents to be made available in a timely manner to ensure informed participation at meetings and to afford time for national consultation. He observed that one option put forward by a group of countries on the final day of the second meeting of the consultative process, held in Bangkok in October 2009, had not been included in the desk study, while options that had been rejected at that meeting had been retained.

24. Several representatives reiterated that enhanced technical and financial support for developing countries was an important element of the work on toxic chemicals, in particular for the implementation of multilateral environmental agreements. Some representatives highlighted the linkages between the consultative process and the synergies process under the Basel, Rotterdam and Stockholm conventions, and with the Strategic Approach to International Chemicals Management, and stressed the importance of increased resource mobilization.

25. One representative, speaking on behalf of a group of countries, said that the consultative process would offer added value in providing a comprehensive and synergistic approach to financing the chemicals and wastes agenda. She expressed the hope that relevant organizations and bodies would engage in the consultative process and recommended that the report should be considered at the twenty-seventh session of the UNEP Governing Council and the third session of the International Conference on Chemicals Management.

26. One representative stressed that, while plans to strengthen financing for the chemicals and wastes agenda should consider the predictability of financing, the desire for predictability should not be viewed as requiring mandatory contributions. One representative said that chemicals at all stages of their life cycle should be considered in the financial options.

27. The representative of the secretariat provided information regarding the dates on which the desk study and other documents resulting from the Bangkok meeting had been sent and gave assurances that every effort would be made to avoid any delays in the future. He recalled that several participants at the Bangkok meeting had requested that all options (referred to during that meeting and in the study as “tracks”) should continue to be explored and expressed concern at the prospect that one option might have been omitted from the desk study as suggested by the representative. Recalling that the consultative process was still under way and that additional comments and contributions would continue to be welcome, he asked the representative to provide any information regarding any option that might be missing from the desk study and other relevant documents.

28. The Committee established a group of friends of the chair to finalize the draft decision for consideration by the Committee. The group was chaired by Mr. Dámaso Luna Corona (Mexico).

29. The Committee resumed its consideration of the issue at its 3rd plenary meeting, on the afternoon of Thursday, 25 February 2010, at which time it considered a revised draft decision prepared by the friends of the chair group.

30. The Committee approved the draft decision, as orally amended, for consideration and possible adoption by the Council/Forum.

#### **D. United Nations Environment Programme support for Haiti: strengthening environmental response in Haiti**

31. The Committee took up the issue at its 1st meeting, on the afternoon of Wednesday, 24 February, with an introduction by the representative of the secretariat, who presented a draft decision on Haiti set out in a conference room paper. He drew attention to the devastating consequences of the earthquake of 12 January 2010, saying that the draft decision sought to establish a role for UNEP in ensuring respect for environmental principles in the reconstruction effort.

32. All the representatives who spoke were unanimous in their support for the draft decision, welcoming the continued involvement of UNEP in protecting the environment during the reconstruction phase. One representative, while welcoming the draft decision, expressed the hope that a more comprehensive and holistic decision on responding to natural disasters and environmental emergencies could be prepared for the Governing Council at its twenty-sixth session.

33. Although there was unanimous support for the draft decision, several representatives suggested revisions aimed at improving the text. At the request of the chair, representatives submitted their suggestions in writing, on the basis of which a revised draft decision was prepared. Following further discussion at its 2nd plenary meeting, on the morning of Thursday, 25 February, the Committee approved the draft decision for consideration and possible adoption by the Council/Forum.

#### **E. Environmental law: draft guidelines**

34. The Committee took up the issue at its 2nd plenary meeting, on the morning of Thursday, 25 February, with an introduction by the representative of the secretariat, who drew attention to the two draft decisions contained in the compilation of draft decisions prepared by the Committee of Permanent Representatives on the subject. He noted that the drafts had been revised following two meetings convened to discuss them and the submission of comments by Governments.

35. All representatives who took the floor welcomed the guidelines and supported their adoption, commending improvements that had been made in the process of their elaboration. One representative, speaking on behalf of a group of countries, commended UNEP on its efforts to promote the issues

covered by the guidelines and said that the guidelines would assist countries in developing domestic legislation on those issues. The draft guidelines for the development of national legislation on access to information, public participation and access to justice in environmental matters constituted an important tool with which to implement Principle 10 of the Rio Declaration on Environment and Development, on broad participation and public awareness, while the draft guidelines for the development of domestic legislation on liability, response to and compensation for damage caused by activities dangerous to the environment were important for the implementation of Principle 13, on environmental liability.

36. Several representatives, however, voiced concern regarding the commentaries, saying that the process by which they had been elaborated had not been open. They recommended that the commentaries should not be included in the draft decision and that their dissemination should be delayed until they could be further reviewed in a more open process. Several representatives said that the guidelines could prove useful to countries lacking legislation in the areas that they covered but stressed that they were voluntary and advisory and that it was up to each country to decide how best to make use of them. One representative added that the guidelines should not be considered as a precedent that would support the establishment of an international legal regime.

37. The Committee established a group of friends of the chair to finalize the draft decisions for consideration by the Committee. The group was chaired by Mr. Aleksandar Vesić (Serbia).

38. The Committee resumed its consideration of the issue at its 3rd plenary meeting, on the afternoon of Thursday, 25 February 2010, at which time Mr. Vesić reported on the discussions among the friends of the chair, who had agreed to a number of changes to the text of the draft decision.

39. The Committee approved the draft decisions, as orally amended, for consideration and possible adoption by the Council/Forum.

## **F. Oceans**

40. The Committee took up the issue at its 3rd plenary meeting, on the afternoon of Thursday, 25 February 2010. Introducing the issue, the representative of the secretariat said that marine issues had long been on the agenda of UNEP, as demonstrated by its numerous initiatives in that regard. He drew attention to the draft decision set out in the compilation of draft decisions prepared by the Committee of Permanent Representatives.

41. All the representatives who spoke expressed concern at the dangers facing the world's oceans, including sea-level rise, ocean acidification and climate change. Several noted that oceans could assist in efforts to combat climate change and, together with coastal and marine ecosystems, contribute to solving the world's environmental, social and economic problems.

42. One representative, speaking on behalf of a group of countries, suggested that UNEP could facilitate impact assessments for marine areas on a regional basis in accordance with the United Nations Convention on the Law of the Sea. She highlighted the importance of the Mauritius Strategy for the Further Implementation of the Programme of Action for the Sustainable Development of Small Island Developing States.

43. Many representatives expressed their appreciation to the Government of Indonesia for hosting the World Ocean Conference from 11 to 15 May 2009 and for its outcome document, the Manado Ocean Declaration. A number of representatives also welcomed long-established UNEP activities regarding the marine and coastal environment.

44. One representative announced that his Government and UNEP had launched what was known as the "blue carbon partnership", intended to recognize the role of marine and coastal ecosystems and to include oceans in a future climate regime. The representative of France informed the Committee that the fifth global oceans conference, to be held from 3 to 7 May 2010, would be co-hosted by France and the United Nations Educational, Scientific and Cultural Organization.

45. One representative reported that her country would be submitting a letter on her country's position that its consent to the adoption of the decision under consideration could not be interpreted as a change in her country's legal position with regard to international instruments, including the United Nations Convention on the Law of the Sea. The letter in this regard was submitted to the secretariat.

46. The Committee approved the draft decision, as orally amended, for consideration and possible adoption by the Council/Forum.

## **G. *UNEP Year Book***

47. The Committee took up the issue at its 3rd plenary meeting, on the afternoon of Thursday, 25 February. Introducing the subject, the representative of the secretariat summarized the content of the *UNEP Year Book*, noting that it was an annual document that sought to highlight significant environmental events and achievements.

48. In the ensuing discussion, one representative requested the secretariat to produce the yearbook as a CD-ROM so that its themes could be circulated more easily and thus enhance understanding among stakeholders. Another representative welcomed the Global Environment Outlook series as a clear example of collaboration and partnership between UNEP, Governments and civil society, hailing the participatory nature of the assessment. Such participation should be continued and expanded, serving as a model for other initiatives.

49. In response, the representative of the secretariat, welcoming the comments made, agreed to look into the possibility of producing the publication in other formats and noted that undertaking scientific assessments also helped to build capacity in civil society.

## **H. Environmental situation in the Gaza Strip**

50. The Committee took up the issue at its 3rd plenary meeting, on the afternoon of Thursday, 25 February. Introducing the issue, the representative of the secretariat reported that the Executive Director had produced a report on the environmental situation in the Gaza Strip in accordance with the mandate set out in decision 25/12 of 20 February 2009. The draft decision before the Committee, set out in the compilation of draft decisions prepared by the Committee of Permanent Representatives, was to inform it of that fact.

51. In the ensuing discussion, one representative, on behalf of a group of countries, submitted a conference room paper containing a proposed amended draft decision, suggesting that the Committee should consider it instead of the draft decision as prepared by the Committee of Permanent Representatives. A number of representatives expressed support for the amended version of the draft decision. At the chair's suggestion, a number of representatives engaged in informal consultations on the terms of the draft decision.

52. The Committee resumed its consideration of the item at its 4th meeting, on the morning of Friday, 26 February, at which time the chair reported on the results of the informal consultations. Following further discussion the Committee approved the draft decision, as orally amended, for consideration and possible adoption by the Council/Forum.

## **I. International environmental governance**

### **1. Secretariat introduction**

53. The Committee took up the issue at its 2nd plenary meeting, on the morning of Thursday, 25 February 2010. Topics to be dealt with were enhanced coordination across the United Nations system, including the Environment Management Group and implementation of the revised memorandum of understanding between the United Nations Development Group and UNEP; the outcome of the work of the consultative group of ministers or high-level representatives on international environmental governance; and comments by the Executive Director on the management review of environmental governance within the United Nations system carried out by the Joint Inspection Unit.

54. The representative of the secretariat introduced the matter of the Joint Inspection Unit review of environmental governance within the United Nations system, outlining the process by which the report on the review had been produced by the Joint Inspection Unit in 2008 and then considered by relevant United Nations bodies during 2009. The report contained 12 recommendations. The Executive Director's comments on the recommendations, which complemented earlier comments by the Secretary-General, were before the Committee for its consideration. The consultative group of ministers or high-level representatives had discussed the report at its meetings in Belgrade (June 2009) and Rome (October 2009), which had been convened to discuss the issue of international environmental governance pursuant to Governing Council decision 25/4 of February 2009.

55. Another representative of the secretariat reported on the work of the Environment Management Group, which had been asked by the Governing Council in section VI of its decision 25/1 of

20 February 2009 to promote cooperation across the United Nations system to assist Member States in implementing the international environmental agenda. Senior officials meeting in New York in September 2009 had identified issues for the Group to consider, including supporting the post-2010 biodiversity process; contributing to the strategic plan of the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa; supporting Member States in making the transition to a green economy; promoting sustainable management in the United Nations system, including enhancing progress towards climate neutrality and sustainable procurement; and devising a common approach to environmental and social safeguards in the United Nations system. Noting that UNEP was increasingly engaged in activities to support the Group, he said that the current session was an opportunity for the Governing Council to exercise its function to give broad policy guidance to the United Nations system, to add political momentum to cooperation and to draw the attention of the General Assembly to the work of the Environment Management Group.

56. Another representative of the secretariat reported on issues arising from the sixty-fourth session of the General Assembly of relevance to UNEP. Of the 249 resolutions adopted at the session, 70 highlighted sustainability and other issues relevant to the programme of work of UNEP and five called for the convening of major United Nations meetings in 2010. In addition, very contentious discussions had taken place within the General Assembly on international environmental governance, the green economy and the intergovernmental science-policy platform on biodiversity and ecosystem services.

57. The chair reported informally on the progress of the ministerial consultations that were taking place concurrently with the meetings of the Committee of the Whole, noting that in their discussions the ministers welcomed the options on international environmental governance presented by the Governing Council; supported the approach whereby form followed function; said that there was a need for a swift resolution of the options for incremental reforms; noted the nexus of environment and development; emphasized the need to strengthen the environment pillar; identified the synergies process of the Basel, Stockholm and Rotterdam conventions as an example of incremental reform that could provide valuable lessons for other clusters of multilateral environmental agreements; viewed the cooperation between the United Nations Development Programme (UNDP) and UNEP, especially in the Poverty-Environment Initiative, as another instance of cooperation that could be replicated elsewhere in the United Nations system; and stressed the importance of providing the international environmental governance process with a timeline, culminating in the United Nations Conference on Sustainable Development.

## **2. International environmental governance**

58. In the ensuing discussion on international environmental governance, there was general appreciation of the significant progress that had been made and the role of UNEP in tackling the issue. Several representatives said that it was important for UNEP to continue to play a central role in developing measures to strengthen international environmental governance and that it should make a core contribution to the preparations for the Conference on Sustainable Development. Several representatives said that in preparing for the Conference UNEP should consult stakeholders with competencies outside the scope of UNEP, including from civil society. One representative said that UNEP should establish a body comprising representatives of civil society with relevant expertise to provide advice on international environmental governance matters. The representative of a civil society organization said that sufficient funding should be made available to ensure the involvement of civil society in the preparations for the Conference and in the Conference itself.

59. Several representatives said that there was a need to strike a proper balance between incremental change and broader reforms. One said that further analysis of the various options for broader reform should be undertaken. Several said that the reform process should not be cumbersome and should focus on increasing the efficiency and effectiveness of the current system, using existing structures and procedures where possible.

60. Some representatives said that the Belgrade process, with its balance between incremental changes and broader transformation, constituted a structural model that could usefully be applied in the lead-up to the Conference on Sustainable Development. There was also support for the key principles established by the consultative group of ministers or high-level representatives, including the principle that form should follow function, although one representative said that some of those principles were more relevant than others.

61. Several representatives said that the implementation of reforms should take into account the capacity of developing countries to participate in the process, noting that the cost of engaging with a wide range of multilateral institutions could be prohibitive. Another representative suggested that the problem could be solved by further streamlining the institutional architecture.

### **3. Enhanced coordination across the United Nations system, including the Environment Management Group**

62. Several representatives said that it was necessary to enhance coordination to make full use of the complementary skills of various stakeholders. A number of representatives welcomed the progress that had been made towards concluding a memorandum of understanding between UNDP and UNEP and expressed the hope that it would result in meaningful action. One representative said that UNEP should play a role in supporting and guiding the work of UNDP on sustainable development.

63. Several representatives said that improving cohesion within the system of environmental governance would require strengthening the UNEP regional offices, which lacked the tools, resources and capacity to address regional priorities or to respond swiftly to emergencies.

64. Some representatives said that the Environment Management Group should remain mindful of its broad mandate to set a common environmental agenda for the United Nations system, reporting on progress and mainstreaming environmental considerations into United Nations activities. One representative said that the Group should be based at UNEP headquarters in Nairobi.

### **4. Secretariat responses**

65. The representative of the secretariat, responding to some points raised, agreed that the UNDP-UNEP memorandum of understanding should have a more programmatic focus, noting that in 2009 several programmes had been developed, including in the areas of climate change, with care being taken to ensure that they complemented, rather than duplicated, existing activities. More than 100 joint activities between UNDP and UNEP were under way and efforts were being made to place them on a more strategic footing.

66. Strengthening the regional offices had emerged as a priority from discussions in 2009 on the strategic presence of UNEP and figured prominently in the new programme of work. The supplementary budget approved by the Governing Council in 2009 had allocated \$4 million to building capacity in the regional offices. More staff members were being moved to those offices, and increased authority was being delegated to regional directors.

67. Regarding environmental and social safeguards, another representative of the secretariat said that such safeguards constituted an application of the principle that no harm should be caused. Some organizations, including the World Bank, were comparatively advanced in the safeguards that they had in place. The Environment Management Group would carry out a gap analysis and consider options for a United Nations system-wide approach.

68. With regard to the mandate of the Environment Management Group, he said that the Group had no authority to impose sanctions and had to rely on cooperation and that its work on climate neutrality had served it well in building trust and developing due process. Turning to the idea of basing the Group in Nairobi, he said that its location in Geneva gave it strategic access to a wide number of United Nations bodies with which it worked. Moreover, the Executive Director of UNEP served as the Group's chair, meaning that there was close coordination between the Group and UNEP headquarters.

### **5. Further discussion and resolution of the issues**

69. The Committee decided to refer the issues of international environmental governance and enhanced coordination across the United Nations system, including the Environment Management Group, to the drafting group for further discussion.

70. The Committee resumed its consideration of the issue at its 4th plenary meeting, on the morning of Friday, 26 February 2010, at which time the chair of the drafting group presented revised draft decisions. Following further discussion the Committee approved the draft decisions, as orally amended, for consideration and possible adoption by the Council/Forum.

71. Also at its 4th meeting, the Committee considered a separate draft decision that had been prepared by the drafting committee on the subject of synergies within the chemicals and wastes cluster

on the basis of text that had been extracted from the draft decision on international environmental governance set out in the compilation of draft decisions prepared by the Committee of Permanent Representatives.

72. The chair of the drafting committee reported that it had not been possible to reach agreement on the draft decision. At the request of the drafting committee, the Committee agreed that the following statement would be included in the present report:

Bearing in mind the substantial progress achieved in enhancing synergies among the existing chemicals and hazardous wastes agreements, some delegations expressed their support for an analysis to be undertaken by the Executive Director on options to realize further synergies within the chemicals and wastes cluster.

### **III. Other matters**

73. The Committee took up no other matters.

### **IV. Adoption of the report**

74. At its 4th meeting, on the morning of Friday, 26 February 2010, the Committee adopted the present report on the basis of the draft report contained in documents UNEP/GCSS.XI/CW/L.1 and Add.1, as orally amended, on the understanding that the report would be completed and finalized by the Rapporteur, working in conjunction with the secretariat. The Committee noted that, owing to a lack of time, the finalization of the report would take into account comments, if any, of the Committee of Permanent Representatives.

### **V. Closure of the meeting**

75. The 4th and final meeting of the Committee of the Whole was declared closed at 2.15 p.m. on 26 February 2010.

## Annex III

### **President's summary of the discussions by ministers and other heads of delegations at the eleventh special session of the UNEP Governing Council/ Global Ministerial Environment Forum**

#### **Introduction**

1. The United Nations Environment Programme (UNEP) Governing Council/Global Ministerial Environment Forum is the United Nations high-level environment policy forum. It brings the world's environment ministers together to review important and emerging policy issues in the field and provides broad policy advice and guidance with the aim, among others, of promoting international cooperation on environmental matters.

2. The eleventh special session of the Council/Forum took place from 24 to 26 February 2009 in Bali, Indonesia. During its high-level segment, participants from 125 countries, including 60 at the ministerial level, along with participants from 16 United Nations organizations and 9 intergovernmental organizations and 31 representatives of major groups and stakeholders, considered the following three topics under the overarching theme of "Environment in the multilateral system":

- (a) International environmental governance and sustainable development;
- (b) Green economy;
- (c) Biodiversity and ecosystems.

3. The high-level segment took the form of ministerial consultations, divided into three sessions, to explore the three topics set out above. Each session had a different structure: session 1, a keynote session, on international environmental governance and sustainable development, was a plenary meeting; session 2, on a green economy, comprised five parallel round-table discussions; and session 3, on biodiversity and ecosystems, also a keynote session, was a plenary meeting. For sessions 1 and 3, ministers provided a keynote address. Session three was moderated by a minister, while a rapporteur recorded the discussions.

4. During session 2, each of the five round table discussions was co-chaired by two ministers or high-level delegates, with a third participant acting as moderator. The moderators were requested to guide the discussions towards the identification of challenges and opportunities in each subject area and to develop clear messages to Governments, the United Nations system, the private sector and civil society.

5. In addition, the ministerial consultations were complemented by a ministerial breakfast round-table discussion on UNEP and the eighteenth session of the Commission on Sustainable Development.

6. All sessions had the benefit of interventions by participants from major groups and stakeholders.

7. The consultations were informed by four thought-provoking background papers prepared as briefings for the participants and the outcomes of two pre-session events: the simultaneous extraordinary meetings of the conferences of the parties to the Basel, Rotterdam and Stockholm conventions and the eleventh Global Major Groups and Stakeholders Forum.

8. Ministers and high-level delegates also reflected on the past 12 months, during which time the global environmental community had prepared for the fifteenth session of the Conference of the Parties to the United Nations Framework Convention on Climate Change, held in Copenhagen in December 2009, and on its outcome. While that meeting had resulted in progress in some areas it had not met all expectations. The attention of Governments and the international community had since been focused on developing the Copenhagen outcome and mapping out the way forward in terms of efforts to combat climate change. Against that backdrop, they also discussed the Intergovernmental Panel on Climate Change in an informal session.

9. Ministers and high-level delegates also considered the International Year of Biodiversity and the preparations for the tenth meeting of the Conference of the Parties to the Convention on Biological Diversity, to be held in October 2010 in Nagoya, Japan.

10. In addition to the present President's summary, the Nusa Dua Declaration was negotiated and adopted by representatives.
11. The present President's summary identifies some of the main challenges and opportunities that were discussed by ministers and high-level delegates with regard to each main theme, together with clear messages to the world's Governments, the United Nations system, civil society and the private sector.
12. The President's summary is a reflection of the interactive dialogue that occurred between the ministers and other heads of delegations attending the eleventh special session of the Council/Forum. It reflects the ideas presented and discussed rather than a consensus view of participants.

## **I. Theme I: "International environmental governance and sustainable development"**

### **A. Major points of discussion**

13. Building upon discussions in 2009, ministers and high-level delegates reaffirmed the need to reform the international environmental governance system to reflect changing circumstances and the proliferation of growing environmental and development challenges currently facing the world. They highly welcomed the work of the consultative group of ministers and high-level representatives established under decision 25/4 and said that its outcome document, the set of options, was an important basis for immediately embarking upon incremental reforms and the concurrent consideration of broader reforms.
14. The nexus between environmental change and development was stressed and it was said that there was a need to consider the reform of international environmental governance within a sustainable development context. General agreement was voiced that incremental reforms falling within the existing mandate of UNEP should be embarked upon immediately while options for broader reforms were considered. The idea that form should follow function was overwhelmingly embraced as the way forward in considering international environmental governance.
15. The simultaneous extraordinary meetings of the conferences of the parties to the Basel, Rotterdam and Stockholm conventions, held prior to the special session, were considered to constitute a crucial milestone in the international environmental governance reform process. In addition, a ministerial lunch on chemicals management, hosted by the Governments of Indonesia and Switzerland, allowed for a better understanding of the synergies process, and it was seen as a significant contribution to the preparations for the United Nations Conference on Sustainable Development, or what has been termed "Rio + 20" in reference to the twentieth anniversary of the 1992 United Nations Conference on Environment and Development, in 2012.

### **B. Challenges: "Surprising how far the environment and development agendas are apart – the issues must be brought together and considered as one"**

16. There was broad agreement that the environment pillar was weak in comparison to the economic and social pillars of sustainable development and thus needed substantial strengthening to keep environment in step with economic and social development. While many good laws and policies existed, their effective implementation was often hampered by a lack of financing and capacity, particularly in developing countries.
17. Ministers and high-level delegates said that the current process of international environmental governance reform should include broad stakeholder participation, which could bring fresh ideas to the debate and facilitate a more equitable and sustainable governance system in the long term.

## C. Opportunities

18. Ministers and high-level delegates observed that the incremental reforms listed in the set of options on the reform of international governance prepared by the consultative group of ministers or high-level delegates provided an important first step in the reform process and should be realized as soon as possible. An important step would be the development by UNEP, in collaboration with the United Nations System Chief Executives Board for Coordination and the United Nations Development Group, of a system-wide environment strategy.

19. They said that the Conference on Sustainable Development could provide an excellent opportunity and framework for changing the current international environmental governance system. A road map should be designed to provide for a focused process and UNEP should facilitate the continuation of the consultative group to provide input to the preparatory process.

20. It was said that the synergies process for the chemicals and wastes conventions provided an important example of incremental reforms and that the lessons learned should be used swiftly for other conventions, in particular for those related to biodiversity. The Conference of the Parties to the Convention on Biological Diversity could use the occasion of its tenth meeting to initiate a synergies process for those conventions. It was also said that the replenishment of the Global Environment Facility (GEF) provided an opportune moment for bringing coherence to the environmental financing system. GEF funding should be enhanced and the position of UNEP within it strengthened.

21. It was suggested that broader reform of the international environmental governance system could include the establishment of a specialized agency, a world environment organization, or the integration of UNEP, GEF and all multilateral environmental agreements into an umbrella organization.

22. It was also said that UNEP, as the leading authority on the environment within the United Nations system, should be strengthened and its central role in the system maintained.

## D. Messages on international environmental governance

23. The key messages devised by ministers and high-level delegates were that:

(a) The current system of international environmental governance is too costly, too fragmented, too time-consuming and inefficient. Reform must begin now. There must be more delivery and less administration;

(b) There was general consensus welcoming the report of the consultative group, with some recommending its adoption;

(c) The synergies process is an important step in incremental reforms, but it is only part of it and more is needed;

(d) The further work of the consultative group should provide input to the nineteenth session of the Commission on Sustainable Development and be fully utilized to make bold reforms to the international environmental governance process;

(e) UNEP should be strengthened vis-à-vis forums where economic decision-making occurs, such as the Group of 20 and the World Trade Organization;

(f) The time is ripe to convert dialogue into specific actions.

## II. Theme II: “Green economy”

### A. Major points of discussion

24. Ministers and high-level delegates suggested that the current multiple global crises provided an opportunity to explore alternative development strategies and that the Green Economy Initiative had been mounted in an endeavour to articulate such strategies. They pointed out that a green economy required the shaping and focusing of policies and investments in areas such as clean and efficient technologies; renewable energy; green buildings; water services; green transport; waste and chemicals management; sustainable agriculture and forestry; tourism; and ecosystem restoration.

25. The key messages devised were that:
- (a) A green economy is the right way towards a stronger, cleaner and fairer world economy;
  - (b) Prohibition of action alone does not work.

**1. “A green economy is the right way towards a stronger, cleaner and fairer world economy”**

26. A green economy is a prerequisite for a more stable economic foundation that is better able to meet food and energy needs while preserving the environment. It should support and not replace the social, economic and environmental pillars of sustainable development. It should embrace both the development and environment agendas.

**2. ‘Prohibition of action alone does not work’**

27. Ministers and high-level delegates said that climate negotiations, for example, had been focusing on costs and burden-sharing, whereas the green economy focused on social and economic opportunities arising from environmental actions. Mainstreaming the environment into the economy was a win-win approach that provided a positive element for environmental negotiations. They stressed that a massive communication effort was needed to highlight the pro-growth, pro-poor and pro-environment nature of green economies.

**B. Challenges**

28. The key messages devised were that:
- (a) Business as usual is no longer an option;
  - (b) Change of behaviour is never easy.

**1. “Business as usual is no longer an option”**

29. Ministers and high-level delegates said that threats to ecosystem services were accelerating. A major challenge was to decouple growth from unsustainable resource use and environmental damage. They stressed that different understandings of a green economy required harmonization. A green economy was a process that could accommodate a large number of related activities. Exactly how the transition to a green economy was to be achieved at the national level and what policies were most effective, however, remained unclear.

30. They noted that traditional industries, such as oil and gas, faced the challenge of how to reduce environmental impacts while maintaining trade competitiveness and benefiting from necessary environmental actions. In addition, as a result of resource constraints and persistent poverty, some countries had limited scope and time to develop green economic sectors. They suggested that public funds were indispensable to kick-start the move to a green economy. The potential offered by such funds, however, would remain small compared to that of private funding; how to leverage private funding for a green economy was therefore an important challenge.

31. Ministers and high-level delegates observed that wide gaps existed between developed and developing countries in terms of human capacity and financing, and countries with economies in transition in terms of technology, and policy implementation. In addition, the limited capacity of developing countries in the area of statistics was impeding the use of indicators to measure the progress of green economies in those countries. Many green technologies existed, but their large-scale commercialization was proving to be a challenge. Accordingly, there was a need to understand existing market and policy barriers to restructuring the economy.

**2. “Change of behaviour is never easy”**

32. Ministers and high-level delegates stated that policy reforms, such as green taxation and the removal of perverse subsidies, were needed to send the correct market signals for the move to a green economy, but they would not be painless. There were vested interests opposed to reforms. It was further stressed, however, that the needs of the poor must be taken into account fully when designing and implementing policy reforms.

33. In many countries there remained a lack of awareness of environmental values. Some countries were concerned that trade-offs would be necessary between the promotion of a green economy and the alleviation of such pressing problems as poverty, food insecurity, underdevelopment, climate change and biodiversity loss.

34. Ministers and high-level delegates observed that many green economy discussions had focused on climate issues, while biodiversity had received less attention. Markets for renewable energy and energy-efficient technologies existed, but it was difficult to establish similar markets for biodiversity.

### C. Opportunities

35. Ministers and high-level delegates said that the UNEP-led Green Economy Initiative had already raised awareness among many government leaders of the need to move to a green economy. There was widespread national-level support for the concept of a green economy and recognition of the links between green jobs and a green economy. Many countries had the will to move to a green economy and some were already making commitments and implementing elements of a green economy.

36. The following key opportunities were identified:

(a) A green economy holds the potential for not only reducing emissions and other environmental impacts, but also for nurturing green technologies, markets and innovations. It not only creates decent jobs, but also safeguards the environment;

(b) A green economy is not only or primarily a solution to the financial and economic crisis, but also a vehicle for contributing to sustainable development and the achievement of the Millennium Development Goals over the medium and long term.

#### 1. **“A green economy holds the potential for not only reducing emissions and other environmental impacts, but also for nurturing green technologies, markets and innovations. It not only creates decent jobs, but also safeguards the environment”**

37. Ministers and high-level delegates said that examples of green economies already existed, although information about them remained largely anecdotal and had yet to be collected and assessed systematically. Land-use policies, for example, were particularly effective in ensuring sustainable activities in rural areas, including land recovery and reforestation, which were important for addressing environmental change and reducing human vulnerability to pressures such as desertification. Similarly, social housing programmes held potential for resolving social issues, providing rural access to clean and modern energy and meeting carbon emission targets.

38. They declared that there was already a growing market for sustainably produced environmental goods and services. Standards and certification and labelling schemes were providing incentives to trade in these goods and services, such as solar and wind technologies.

#### 2. **“A green economy is not only or primarily a solution to the financial and economic crisis, but also a vehicle for contributing to sustainable development and the achievement of the Millennium Development Goals over the medium and long term”**

39. Ministers and high-level delegates said that the current two-year cycle of the Commission on Sustainable Development offered an opportunity to promote a green economy in the context of chemicals, wastes, transport, mining and sustainable consumption and production.

### D. Messages on the green economy: **“Fast movers on a green economy are likely to become a new group of developed countries and those who move slowly will be the new under-developed”**

40. Ministers and high-level delegates said that the United Nations system and regional institutions should harmonize and coordinate relevant initiatives, concepts and processes such as green industry, green growth, low-carbon economy, the Marrakech Process and the International Panel for Sustainable Resource Management. There was a need to define more precisely the components that underpin the green economy, for example, taxation, markets, role of finance and technology, although a common definition might be difficult to achieve given the diverse circumstances of countries.

41. In addition, there was a need to develop basic criteria to verify what was truly green. There was “no one size fits all”, but relevant indicators and indexes, including for the quality of jobs created in green sectors and women’s participation, were needed for independent monitoring of the progress on a green economy. Such criteria should not be based only on economic considerations. The full impacts of green economy policies should be assessed, including risks to workers and biodiversity. Sustainable livelihoods should be part of the definition of a green economy.

42. Economic arguments for a green economy were important, but human society’s basic value systems, including a sense of justice and contributions to the Millennium Development Goals, must also be included in the green economy concept. Education and awareness-raising to stimulate demand for a green economy, based on local values, traditions and codes of ethics were indispensable for motivating urgent actions before natural resources were exhausted.

43. UNEP should organize its green economy advisory services by following the Bali Strategic Plan on Technology Transfer and Capacity-building. It should compile and disseminate international experiences, examples of success stories, best practices, model regulations and legislation and applicable tools, accompanied by training for various sectors, so as to empower countries to take their own green economy initiatives. UNEP should host a policy forum for regular discussions on the green economy, including green investment summits and technical workshops.

44. UNEP and its partners should add value to international coordination at the national level by enhancing the institutional capacity of developing countries and countries with economies in transition to enable their ministers of environment to discuss the green economy with their counterparts in economic and finance ministries. They should help countries to develop green economy plans and initiate actions on the ground. Toolkits should be adaptable to the country situation and green economy strategies should be designed based on prior scientific assessments.

45. In providing advisory services to countries, UNEP and its partners should take into account various needs, challenges and circumstances specific to each country’s respective strengths and weaknesses and local values and cultures. Special attention should be paid to supporting small, less-developed countries in safeguarding natural resources and building a green economy.

46. The transformative change sought by the Green Economy Initiative required the political will of Governments, which often rested upon the consensus and full participation of all relevant ministries, businesses, industrial associations, workers, trade unions, employers, civil society, non-governmental organizations, indigenous communities and women in the design of green economy strategies and policies, including local solutions.

47. Countries could not achieve green economies in isolation. They needed international cooperation, including South-South and North-South cooperation, regional cooperation and public-private partnerships in the areas of scientific research and technological innovations. Developed countries should provide financial support to developing countries’ green economy efforts.

48. Countries should focus their green economy strategy on areas in which they had a comparative advantage and where there was a clear potential to create high-quality jobs.

49. A basket of policies and measures was required to enable the transition to a green economy. They included, among others, environmental regulations standards, reform of perverse subsidies, ecosystem valuation, environmental taxation and pricing, investment policies, support for research and development, technology transfer and cooperation, green consumption, government procurement and transitional arrangements for workers affected by the move to a green economy. All public policies should contribute to, or at least not work against, the building of a green economy.

50. Adjustments to domestic policies alone would not enable a move to a green economy. International environmental standards and international legislation on patents, trade and investment conceived with the green economy in mind could provide impetus to the development of a green economy. Aid conditionalities should also be considered to allow space for countries to implement policies in support of the move to a green economy.

51. Summaries of each round table can be found in document UNEP/GCSS.XI/INF/11.

### III. Theme III: “Biodiversity and ecosystems”

#### A. Major points of discussion: “The human species must be at the centre of finding solutions”

52. Ministers and high-level delegates said that the International Year of Biodiversity provided an excellent opportunity for the world’s Governments to recommit themselves to reversing biodiversity loss. Economic instruments were of particular interest to member States, along with the interface between science and policy and between science and traditional knowledge. In their consultation on biodiversity and ecosystems, they focused on the economic valuation of biodiversity through various initiatives and instruments, such as the study entitled “The economics of ecosystems and biodiversity” (referred to as “TEEB”), reducing emissions from deforestation and forest degradation (known as “REDD” or “REDD-plus”) and the intergovernmental science-policy platform on biodiversity and ecosystem services.

53. They noted that the forthcoming tenth meeting of the Conference of the Parties to the Convention on Biological Diversity could provide an opportunity to raise awareness and develop synergies between multilateral environmental agreements, without prejudice to their individual objectives. Representatives at that meeting should also finalize and adopt a regime on access and benefit-sharing and post-2010 targets for biodiversity. They also noted that the discussions on post-2010 targets shared many common properties.

#### B. Challenges: “Human activity is responsible for biodiversity loss”

54. Population growth and associated demands on food, water and other resources, the move from natural to built environments and unsustainable economic development, contributed to biodiversity loss. The impacts on mountain ecosystems in particular were highlighted. Some ministers and high-level delegates also noted that internal and external drivers contributed to biodiversity loss. They acknowledged, however, that understanding of those drivers remained incomplete.

55. Ministers and high-level delegates said that it was necessary to halt biodiversity loss, lest the vulnerability of ecosystems and human well-being to natural disasters was increased. A major challenge was to improve the living conditions of the poor while enhancing agricultural systems and their resilience.

56. Another significant challenge lay in how to place an economic value on biodiversity. It must be recognized that biodiversity loss equated to economic loss. Ministers and high-level delegates highlighted what they said was a need to develop toolkits for valuing biodiversity and mainstreaming it into the green economy.

57. They observed that illegal trade and logging activities had led to significant ecosystem damage and therefore considerable economic loss. The global community needed to find ways to prevent such activities.

58. They conceded that the knowledge base required to deal with biodiversity loss was incomplete. There were gaps, in particular, in the information required for the social, environmental and ecological indicators required to redefine the calculation of gross domestic product, the impact of climate change on the rate of biodiversity loss, the impact of perverse subsidy systems and the social and economic aspects of sustainable use of biodiversity, especially in agriculture.

#### C. Opportunities: “Today’s environment is tomorrow’s economy”

59. Ministers and high-level delegates expressed the view that the International Year of Biodiversity provided an excellent opportunity for the world to take action to reverse the decline in the state of environmental and natural resources, including biodiversity, and to build synergies between the various multilateral environmental agreements. It could also be used as an incentive to promote the use of existing conservation measures, such as the establishment of protected areas and the implementation of ecosystem-based adaptation and mitigation, and to make use of mechanisms, such as REDD-plus, to create a win-win situation for stakeholders seeking to prevent biodiversity loss.

60. Ministers and high-level delegates pointed out the existence of opportunities to demystify biodiversity concepts, to raise public awareness of the post-2010 targets and to change behaviour and

consumption patterns, with the ultimate aim of contributing to the halt of biodiversity loss. Awareness-raising should occur at various levels and should focus in particular on politicians and decision makers.

61. During their discussions, ministers and high-level delegates reiterated the view that there was a gap between policy and science that urgently needed to be bridged, in particular through an agreement on an intergovernmental platform on biodiversity and ecosystem services. Such a platform would build on the Millennium Ecosystem Assessment, TEEB and *The Stern Review on the Economics of Climate Change*.

62. They stressed that the economic value of biodiversity must be integrated into national economic policies and should be accorded priority in national climate-change strategies. That would require building capacity and enhancing regional cooperation. Integrating the value of biodiversity into economic policies would enable it to be used sustainably and give businesses the opportunity to invest in the green economy. To accomplish this, however, there was a need to look at new economic models, create an enabling environment for the right kind of investments and encourage new innovative funding sources and novel thinking on trade.

#### **D. Messages on biodiversity and ecosystems: “2010 must be all about action”**

63. Ministers and high-level delegates said that the General Assembly at its sixty-fifth session, the conferences of the parties to the Convention on Biological Diversity and the United Nations Framework Convention on Climate Change in 2010 should be used to develop synergies between these and other conventions. The events of the International Year of Biodiversity could be used in preparation for the Conference on Sustainable Development and to measure progress towards attaining the Millennium Development Goals.

64. The celebration of the International Year of Biodiversity and the tenth meeting of the Conference of the Parties to the Convention on Biological Diversity in 2010 provided an opportunity to conclude discussions on whether to establish an intergovernmental platform on biodiversity and ecosystem services. The Nagoya meeting should also be seen as an opportunity to conclude discussions on an international regime on access and benefit-sharing

65. The post-2010 targets should be realistic, focused, measureable and verifiable, and should be agreed upon at the tenth meeting of the Conference of the Parties to the Convention on Biological Diversity.

### **IV. Ministerial breakfast on UNEP and the Commission on Sustainable Development**

#### **A. Major points of discussion**

66. Ministers and high-level delegates recalled that the areas of focus in the current cycle of the Commission on Sustainable Development (chemicals; waste; transport; mining; and sustainable consumption and production) were closely aligned to a number of areas (resource efficiency; chemicals and wastes management; ecosystem management; climate change; etc.) that were UNEP priority areas and areas in which UNEP had extensive experience and capacity. In the light of that close alignment, they agreed that UNEP should contribute to the work of the Commission in a proactive manner.

67. Noting that the environment was central to many issues in the Commission’s current cycle and that ministers of environment were expected to be extremely active during the cycle, ministers and high-level delegates highlighted the importance to a successful outcome of ensuring that ministers from all other relevant sectors (e.g., transport; mining; industry; and trade) were also actively engaged.

68. They also said that the topics of the Commission’s eighteenth and nineteenth sessions should be considered within the overarching theme of the green economy and promoting resource efficiency.

## B. Challenges: “Without changing consumption patterns, we cannot achieve environmental goals”

69. In identifying the key challenges, ministers and high-level delegates said that there was a need for a paradigm shift, arguing that business as usual could not continue and that the way in which people related to nature must change. Education and awareness-raising were key components in efforts to bring about that change.

70. They observed that the themes being discussed during the Commission’s current cycle represented significant national challenges, namely:

(a) *Chemicals*: chemical use could have negative impacts on soil, food, water resources and human health. Those risks notwithstanding, the sound management of chemicals had not been a priority for many developing countries. They also noted that the risk associated with the use of chemicals in products was an important issue that should be discussed during the forthcoming cycle;

(b) *Waste*: waste management posed a serious global challenge. In addition, in many countries the informal waste sector involved risks to scavengers’ health and well-being. It was not the number of people that mattered, but the volume of waste generated per capita. That implied that small countries could benefit more from joint regional projects supported by a stronger UNEP presence at that level;

(c) *Transport*: pollution, including greenhouse-gas emissions, from modern transportation systems posed significant risks to the environment;

(d) *Mining*: several challenges associated with the mining sector, including the use of hazardous chemicals, the generation of waste during production processes and the pressure from mines on national parks, wetlands, rainforests and indigenous lands, were of great risk to the environment;

(e) *Sustainable consumption and production*: sustainable public procurement and national sustainable consumption and production programmes were important areas for Governments but Governments alone could not make the necessary changes. It was therefore crucial for Governments to work with the private sector and civil society.

71. Ministers and high-level delegates also pointed out that the challenges encountered under the themes and sectors above were not only environmental but also social and economic in nature.

## C. Opportunities: “We must change mindsets so that when we see waste we see wealth”

72. Ministers and high-level delegates remarked that the 10-year Framework of Programmes on sustainable consumption and production under the Marrakech Process provided an opportunity for UNEP to scale up activities in which it had been engaged over the years. It was necessary to assess achievements thus far honestly and to bring practical examples of effective programmes and policies into those forums that were developing new policies.

73. In the view of ministers and high-level delegates, the Conference on Sustainable Development provided a unique opportunity to seek convergence on the issues of constructing a green economy and achieving sustainable consumption and production. They said that it should also be used to develop the institutional framework for sustainable development. From the themes of the current cycle of the Commission on Sustainable Development they identified the following challenges and opportunities:

(a) *Chemicals*: the sound management of chemicals should be integrated into national sustainable development plans, as that could yield important health and related economic benefits;

(b) *Waste*: although traditionally viewed as an environmental problem, waste also presented an economic opportunity because it was a resource and could be used to generate energy;

(c) *Transport*: the phasing out of lead in petrol had been very successful as a result of the development of national standards; there was a need to invest in mass – or public – transport systems and infrastructure such as railway systems and non-fossil-fuel sources of energy for transport.

74. Ministers and high-level delegates expressed the view that during its current session the Commission should consider how to change consumer behaviour and lifestyle choices, along with responsible advertising and marketing, education and the concept of extended producer responsibility. Much, in their view, could be learned from indigenous populations, many of whom were already

sustainable producers (for example, of organic products and textiles). Some of the lessons to be learned could be applied to support the transition to a green economy.

#### **D. Messages from the ministerial breakfast on UNEP and the Commission on Sustainable Development**

75. The cooperation between UNEP and the United Nations Department of Economic and Social Affairs should be strengthened in the preparation and implementation of the two-year cycle of the Commission on Sustainable Development. The establishment of a feedback mechanism between the two bodies would ensure complementarity between the Commission and the UNEP Governing Council/Global Ministerial Environment Forum processes.

76. The Commission's current cycle provided an opportunity to operationalize and to define a clear structure for the 10-year Framework of Programmes on sustainable consumption and production, which should build on the outputs of the Marrakech Process and other existing initiatives.

77. UNEP should continue and scale up its efforts to produce science-based information, to build the capacity of developing countries and countries with economies in transition to manage chemicals and resources sustainably and to enhance access to efficient and environmentally friendly technologies. UNEP was an appropriate forum for constructing a global platform on waste issues, including how to convert waste into energy.

78. The green economy would only be a useful economic model if it considered all aspects of sustainable development and addresses poverty eradication. If not, it risked hampering development.

79. There was a need for a governance system capable of meeting the challenges currently being faced. In that context UNEP work to reform international environmental governance was essential and should involve major groups and other stakeholders in consultation and in support of implementation. An advisory group from civil society would be an important addition to the process.

## Annex IV

### Message from the Secretary-General

1. It is a pleasure to greet all the participants in this, the eleventh special session of the UNEP Governing Council and Global Ministerial Environment Forum. I welcome your focus at this session on the key issue of international environmental governance. You will all recall that this was addressed at the first Global Ministerial Environment Forum 10 years ago.
  2. The Malmö Declaration stressed the need to intensify efforts to remedy the alarming deterioration of the natural resource base that supports life on Earth. The window of opportunity to preserve our natural capital is diminishing rapidly. As consumption grows, and as climate change gathers pace, we risk reversals in the many gains that have been made towards the Millennium Development Goals. The gulf between the aspiration for environmental sustainability and our achievements remains too wide. Improved international governance of environment and development can help close that gap.
  3. For instance, the Montreal Protocol to the Vienna Convention for the Protection of the Ozone Layer is a practical example of how to realize the principle of common but differentiated responsibility to tackle a global threat. Its combination of political will, legal teeth, adequate funding and private-sector collaboration is a powerful mix. Its lessons can be applied to other areas that demand urgent remedies, including climate change.
  4. The Copenhagen climate conference marked a significant step forward in a number of areas, including the setting of a 2° C goal, mitigation commitments for all countries, funding for developing countries and addressing deforestation and forest degradation. To maintain the momentum, I urge you to reject the last-ditch attempts by climate sceptics to derail your negotiations by exaggerating shortcomings in the IPCC Fourth Assessment Report. Tell the world that you unanimously agree that climate change is a clear and present danger, that you are working to implement agreements already made and that you are continuing negotiations under the United Nations Framework Convention on Climate Change to address climate change according to the demands of current scientific information.
  5. I will continue to urge all Parties to remain engaged, to increase the level of ambition and to focus on implementation while negotiations continue. Two weeks ago I launched a High-level Advisory Group on Climate Change Financing and I will soon launch a High-level Panel on Global Sustainability. Both will contribute to the intergovernmental processes in which you participate.
  6. This Global Ministerial Environment Forum understands better than any that environmental ills cannot be solved where influence and institutions are weak. A coherent and effective international environmental governance architecture can provide a foundation for human well-being for generations to come. I urge you to be bold and creative in putting forward new ideas. In that spirit, I wish you a successful and productive meeting.
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