



Reference: DELC/ELB

22 January 2007

Information note by the secretariat

Bandung Roadmap for Advancement of Environmental Law in Support of the New Asian-African Strategic Partnership

At a New Asian-African Strategic Partnership (NAASP) - UNEP Workshop on Environmental Law and Policy jointly convened by the United Nations Environment Programme (UNEP) and the Governments of Indonesia and South Africa in Jakarta and Bandung, Indonesia from 12-16 December 2006, 58 experts from 40 Asian and African countries* considered the problems and needs in environmental law and policy facing their countries and reviewed their own experiences in addressing them. Following intensive debate on those issues, they identified a set of recommendations as a way forward to address them.

On 16 December 2006, the experts participating in the workshop and senior officials of the Governments of Indonesia and South Africa, in the final session of the workshop, gathered at the historic venue of the 1955 Asian-African Conference and the 2005 Asian-African Summit in Bandung, and adopted the recommendations as the outcome of the workshop - *Bandung Roadmap for Advancement of Environmental Law in Support of the New Asian-African Strategic Partnership*. The text of the Bandung Roadmap is presented in the annex to the present note.

The Bandung Roadmap presents a concrete step forward for enhancing south-south cooperation in the field of environmental law in support for the New Asian-African Strategic Partnership, as part of the direct implementation of the Bali Strategic Plan for Technology Support and Capacity-building.

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* Experts included government officials, judges, parliamentarians and other legal stakeholders, representatives of academic and research institutions and other relevant organizations from the following countries:

Benin, Bhutan, China, Congo, Cote d'Ivoire, Ethiopia, Fiji, Gambia, Ghana, India, Indonesia, Japan, Kenya, Kiribati, Kyrgyzstan, Lao People's Democratic Republic, Lesotho, Madagascar, Malawi, Malaysia, Maldives, Marshall Islands, Mauritius, Nepal, Nigeria, Pakistan, Philippines, Rwanda, Samoa, Saudi Arabia, Seychelles, South Africa, Sri Lanka, Sudan, Syrian Arab Republic, Thailand, Uganda, United Republic of Tanzania, Yemen, Zimbabwe.

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I. Key issues

1. In recent years, in particular since the 1992 Rio Summit, important progress has been observed in many Asian and African countries to address environmental problems through progressive development of environmental law and institutions. Laws on environmental issues, both in the form of sectoral and thematic laws and a framework environmental law, as well as an environmental ministry or agency, now exist in most of countries in the Asian and African regions. The concept of sustainable development has been generally accepted in national environmental policies of those countries as a guiding norm. In parallel, the implementation of international environmental law, especially multilateral environmental agreements, has become a key issue for each country in undertaking its national environmental policy. The Bali Strategic Plan for Technology Support and Capacity-building supports efforts of developing countries and countries with economy in transition in enhancing their capacity in this area.
2. However, in spite of such progress in establishing environmental norms through national and international environmental law, there are challenges and problems in achieving environmental objectives.
3. Eradication of poverty and sound and sustainable management of the environment are closely interlinked, yet the relationship between them and the contribution that the environment makes to the poverty eradication, and the role of law thereon, have not been fully appreciated. Overall, economic development is still considered in many countries as a priority in isolation from the environment and natural resource bases that enable sustainable economic and social development. The improvement of human welfare and wellbeing, which should be at the core of sustainable development, is often ignored, and therefore should become more visible.
4. Also, the relationship between international trade under the WTO regime and the environment, or the relationship between human rights and the environment needs to be further addressed in environmental law and policy. Consumption and production patterns of the modern society pose a significant long term challenges. Technology transfer should be made in an environmentally friendly manner.

5. Climate change, water, risk reduction in the management of hazardous substances and wastes, benefit sharing in sustainable management of biological resources, and environmental security, all of which should be placed in the context of sustainable development, are among the key challenges to be further addressed by environmental law and policy.

6. In the implementation and enforcement of environmental law, problems have been identified, including the following:

- (a) Lack of full appreciation by policy-makers of the value of the environment and the services it provides for supporting economic and social development and improvement of human wellbeing and welfare. Consequently, the environment has not been mainstreamed in development policies, and the environment has been accorded as a low priority with little economic value;
- (b) Lack of adequate environmental awareness and knowledge on environmental matters among government officials, parliamentarians, judges, prosecutors, magistrates, attorneys, police and other enforcement officials, as well as the public, and a need for appropriate training and capacity-building for them;
- (c) Fragmented environmental and environment-related laws and regulations governed under different government authorities that are outside of the control of the environmental authority, and possible conflict among them. Laws are often outdated and inadequate to address emerging environmental issues;
- (d) Relatively weak power of the environmental authority within the government;
- (e) Lack of adequate access to environmental information and access to justice by the public;
- (f) Need for coordination and cooperation between enforcement officers;
- (g) Corruption in the enforcement of environmental law, including certain segments of the judiciary, police, customs and other enforcement officials;
- (h) Lack of human, technical and financial resources to support environmental authority and related institutions for implementing environmental law;
- (i) Lack of capacity and resources for full involvement in the negotiation on multilateral environmental agreements;
- (j) Lack of capacity and resources for the implementation of multilateral environmental agreements at the regional and international levels.

II. A way forward for advancement of environmental law and policy to achieve environmental goals and objectives for sustainable development

7. In order to address the key issues above, the following course of action in environmental law and policy should be taken in support of the New Asian-African Strategic Partnership, within the overall framework of the Bali Strategic Plan for Technology Support and Capacity-building:

- (a) Enhance cooperation among Asian and African countries in exchanging experience and expertise, including by convening on a regular basis a partnership forum for Asian and African countries on environmental law and policy supported by UNEP, as well as exchanging relevant experts (e.g. officials, academia) between those countries in the field of environmental law and policy;
- (b) Support capacity-building for Asian and African countries in the implementation of multilateral environmental agreements;
- (c) Provide training for enhancing skills of Asian and African countries to negotiate international conventions;
- (d) Establish an informal network on environmental law and policy among officials, experts and other stakeholders in Asian and African countries to exchange relevant information and share good practices and lessons, especially by utilizing information technologies (e.g. internet-based communication tools), facilitated by UNEP;
- (e) Facilitate environmental valuation, costing of environmental resources and environmental auditing, including addressing value of traditional knowledge and valuation of environmental damage;
- (f) Support developing guidelines on mainstreaming the environment in law and policy;
- (g) Support efforts for harmonization of policies, laws and standards in Asian and African countries with respect to trade and environment linkage;
- (h) Promote undertaking of strategic environmental assessments in support for environmental law and policy;
- (i) Support advancement of good governance at all levels;
- (j) Address the linkage between human rights and the environment, and in that context, assist in developing measures to protect the poor, indigenous people and other vulnerable groups in the society;
- (k) Promote the development of mechanisms to facilitate the prevention and peaceful settlement of environmental disputes, including the use of arbitration, environmental court and other practical dispute resolution mechanisms;
- (l) Promote effective means to enhance enforcement in environmental matter, including identifying adequate means of sanctions;

- (m) Identify means to pursue the responsibility of a country from which environmental hazard has been brought into the territory of another country in violation of relevant laws of that country;
- (n) Promote awareness-raising on environmental matter at all levels, including the promotion of environmental ethics, supported by effective engagement of media in environmental matter in support of environmental law and policy;
- (o) Facilitate information dissemination on environmental law through internet and hard copy publications;
- (p) Promote sensitization of parliamentarians, judges and other legal stakeholders with regard to environmental matter and related laws and policies, including those addressing important and emerging issues, in order to assist them enhancing their knowledge base for informed decision-making;
- (q) Promote environmental awareness and participation of youth, women and children in addressing environmental matter, taking into account the need for gender mainstreaming in relevant laws and policies;
- (r) Promote enhancement of technical capacity to deal with environmental cases at enforcement agencies, including easier access to laboratories and other relevant facilities for investigation;
- (s) Support enhancing the role of prosecutors and their ability to pursue environmental cases, including through prosecutor training courses, as well as training for lawyers in legislative drafting;
- (t) Promote more effective enforcement practices, such as use by customs officials of documents associated with international trade (e.g. use of a bill of entry) or enhancing cooperation with the World Customs Organization;
- (u) Undertake studies on the effectiveness of a voluntary compliance regime or the use of economic instruments, as a supplement to the command and control system;
- (v) Identify ways and means to secure necessary financial resources to support environmental protection.

Bandung, 16 December 2006