ICEL



WORLD COMMISSION ON ENVIRONMENTAL LAW OF THE
INTERNATIONAL UNION FOR THE CONSERVATION OF NATURE

INTERNATIONAL COUNCIL OF ENVIRONMENTAL LAW

INTERNATIONAL GROUP OF EXPERTS FOR THE PACT

NOTE

On The

United Nations Secretary-General's Report, "Gaps in international environmental law and environment-related instruments: towards a global pact for the environment"

(A/73/419, 3 December 2018)

10 December 2018

Executive Summary

The Secretary-General's historic first Report of 3 December 2018 on international environmental law is a welcome analysis of legal endeavors worldwide to protect the Earth's environment. Without this field of law, the impacts of climate change, biodiversity loss, and pollution would have been worse. States have adopted many agreements to frame their cooperation to safeguard the environment. Each agreement contains general principles of environmental law. ICEL has compiled rosters of these principles from all the global and regional agreements and recorded them in the ICEL Charts, which are presented here for the first time. These principles have the potential to accelerate implementation of the UN Sustainable Development Goals (SDGs). This Note explains how and why the consultations in 2019 in Nairobi could reach consensus on the codification and progressive development of core principles of international environmental law. The Note offers commentary also on other aspects of the Secretary-General's Report.

This Note sets forth an independent assessment by a working group of expert members of the World Commission on Environmental Law (WCEL) of the International Union for the Conservation of Nature (IUCN),[1] and of the International Council of Environmental Law (ICEL),[2] in concert with the International Group of Experts for a Global Pact for the Environment (IGEP).[3] The opinions expressed in this Note are the individual scholarly or professional judgments of these experts, and are not statements on behalf of either WCEL-IUCN, ICEL, or IGEP. This Note offers information and expert perspectives as a contribution for the forthcoming consultations about international environmental law that will convene in Nairobi, Kenya, in 2019.

We dedicate the Note to the memory of Elisabeth Haub and Wolfgang E. Burhenne, founders of IUCN's environmental law programme, and in honor of Prof. Charles Okidi,[4] and of the other laureates of the Elisabeth Haub awards in environmental law and diplomacy,[5] all of whom made enormous contributions to establishing the field of environmental law across all regions of the Earth.

[1] The International Union for the Conservation of Nature (IUCN), founded in 1948, established its World Commission on Environmental Law in 1963. Its Law Commission's Members were instrumental in the development of several agreements, such as CITES and the Convention on Biological Diversity, as well as soft law instruments, such as the World Charter for Nature. IUCN participates in the work of the UN General Assembly through its Permanent Observer Mission to the UN in New York, and its headquarters in Gland, Switzerland. Contact via the WCEL Administrative Officer at wcel@iucn.org.

[2] ICEL was founded in New Delhi in 1969, and is constituted under Article 60 of the Swiss Civil Code (Canton of Geneva). It has been accredited to the UN Economic and Social Council (ECOSOC) since 1973, and maintains representatives in Bonn, Geneva, and New York. It sponsors the Journal *Environmental Policy & Law*. It is a Member of IUCN. Contact via ICEL Executive Governor at nrobinson@law.pace.edu.

[3] The Commission on the Environment of the *Club des Juristes* launched preparation of the draft Global Pact for the Environment in 2016-17. It convened a group of more than 100 environmental law experts, many also are members of the IUCN CEL and ICEL, who deliberated during the first half of 2017 and met in Paris in June of 2017 to refine and approve the text of the Global Pact for the Environment. See also,"Renforcer l'efficacité du droit international de l'environnement – Devoirs des Etats, droits des individus," http://www.leclubdesjuristes.com/rapport-renforcer-lefficacite-du-droit-international-delenvironnement-devoirs-des-etats-droits-des-individus/ (2015) (a summary of the report and the full report are available in English). The International Group of Experts for the Pact (IGEP) is an association of these experts. Contact via Secretariat at globalpact@globalpactenvironment.org.

[4] Patricia Kameri-Mbote and Collins Odote, eds., Blazing the Trail - Professor Charles Okidi's Enduring Legacy In The Development of Environmental Law (University of Nairobi, 2019).

[5] http://www.juridicum.su.se/ehp/laureates.html for law and https://law.pace.edu/elisabeth-haub-award for diplomacy. The two awards were merged in 2018, and will continue as one award recognizing the shared contributions leaders in both fields make for strengthening international environmental law.

Note on the UN Secretary General's Report on International Environmental Law

Welcoming the Secretary-General's Report

This Note welcomes the first report ever issued by the Secretary-General of the United Nations concerning the field of international environmental law, A/73/419 (30 November 2018). The UN General Assembly mandated preparation of the Report in resolution 72/277 (10 May 2018), entitled "Towards a Global Pact for the Environment." The Report is a major contribution to the further development of international environmental law. It would be of value for the UN General Assembly to request further such reports, on a periodic basis, on the progressive development of international environmental law, a realm of cooperation among States that did not exist when the United Nations was established.

The genesis of the General Assembly's request for the preparation of this Report was the submission by France of a proposed draft of a "Global Pact for the Environment,"[6] which had been prepared in 2017 by an international group of experts on international environmental law. Their draft reflected analysis of the development of normative principles of international environmental law since the 1972 Stockholm Declaration on the Human Environment.[7] The General Assembly put the draft Pact to one side and requested that the Secretary-General undertake an independent review of the instruments that comprise contemporary international environmental law, and identify gaps and relationships with other related fields of law. In addition to the 1972 Stockholm Declaration, the General Assembly resolution references the 1982 World Charter for Nature,[8] the 1992 Rio Declaration on Environment and Development,[6] Agenda 21 and the Programme for the Further Implementation of Agenda 21,[9] the Johannesburg Declaration on Sustainable Development,[10] the outcome document ("The Future We Want") of the 2012 UN Conference on Sustainable Development,[11] the 2015 Sustainable Development Goals,[1213] as well as the outcomes of other UN conferences and summits in economic, social and environmental fields.

At the outset, we find that the Secretary-General's analysis is sound and we share the

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[6] Global Pact for the Environment; White Paper: Toward a Global Pact for the Environment (September 2017), both available at: http://pactenvironment.org.
[7] Stockholm Declaration on the Human Environment, at http://www.un-documents.net/unchedec.htm.
[8] World Charter for Nature , Res 37/7 (1982), at http://www.un.org/documents/ga/res/37/a37r007.htm37/7 (1982) [6]
Rio Declaration, A/CONF.151/26 (Vol. I), at http://www.un.org/documents/ga/conf151/aconf15126-1annex1.htm.
[9] Agenda 21 (1992), at https://sustainabledevelopment.un.org/outcomedocuments/agenda21
[10] Johannesburg Declaration on Sustainable Development, 2002, available at http://ec.europa.eu/environment/archives/wssd/documents/wssd_pol_declaration.pdf.
[11] "The World We Want," Outcome Document of the Rio 2012 Summit on Sustainable Development, at https://sustainabledevelopment.un.org/futurewewant.html
[12] UN General Assembly, Transforming our world: The 2030 Agenda for Sustainable Development, A/RES/70/1 (21 October
[13]) available at: https://www.refworld.org/docid/57b6e3e44.html (accessed 7 December 2018)

Report's over-all analysis and conclusions. As the Report falls into the mainstream of scholarly and professional analysis about environmental law, as confirmed by the many expert references that we cite in this Note, we are able to promptly respond to this Report and proffer these additional further perspectives.

The state of international environmental law has been extensively set forth and succinctly summarized in the 26 chapters of UNEP's "Training Manual on International Environmental Law" (2006), which was prepared by experts from each region around the world.[14] This Manual provides a standard description of international environmental law, in an easily understood and non-technical presentation. The Secretary-General's Report necessarily assumes that its readers have some familiarity with the field of environmental law. For those who may not have this background, this UN Environment Programme (UNEP, UN Environment) Manual provides context and can serve as a reference in relation to the recommendations in the Secretary General's Report.

An Urgent and Common Concern for the Earth

Why does the Secretary-General's Report matter, to States, to us in our chosen discipline of environmental law, and ultimately to world security and order?

Former UNEP Executive Director Klaus Töpfer introduced UNEP's Manual in 2006 stating that: "Today's world is facing an unprecedented environmental crisis. Deterioration of the Earth's environment increasingly threatens the natural resource base and processes upon which all life on Earth depends. Without strong and multifaceted action by all of us, the biosphere may become unable to sustain human life and future generations will suffer deprivation and hardship unless current patterns of production, consumption and water management dramatically change. The urgency of balancing development with the Earth's life support systems is being finally recognized and understood. Now it is time to act upon this understanding." The UNEP "Global Environmental Outlook 5" (GEO-5) report in 2012 confirmed that Earth's environment is degrading faster and further than was the case in 2006.[15]

The recent Special Report of the Intergovernmental Panel on Climate Change (IPCC), "Global Warming of 1.5°C" (October 2018),[16] soberly reported that the time to act to avert harm has passed. IPCC (Intergovernmental Panel on Climate Change) studies revealed that unless remedial action is taken in the next decade, all States face irrevocable damage. Adverse impacts of climate change, extreme weather events, fires, droughts, and floods, today are eroding development gains that took years to acquire. The IPCC attributed the recent record-breaking floods, droughts, and coastal impacts from rises in sea levels, to the .87°C rise in global atmospheric temperature since the pre-industrial era (1850-1900). The IPCC advised that the aim of the 2015 Paris Agreement, to hold the rise in temperature to "well below a 2°C increase above

[14] Training Manual on International Environmental Law (UNEP, 2006), ISBN 92-807-2554-8; on line at https://digitalcommons.pace.edu/lawfaculty/791/ . Currently being updated by UN Environment and the IUCN Academy of Environmental Law.
[15] UNEP, Global Environment Outlook 5: Environment for the Future We Want (2012), available at: http://wedocs.unep.org/handle/20.500.11822/8021.
[16] IPCC Special Report, "Global Warming of 1.5ºC," at https://www.ipcc.ch/sr15/ (last accessed December 4, 2018).

pre-industrial levels" and to pursue efforts to limit the temperature increase to 1.5°C above preindustrial levels, is insufficient to avert severe disruption globally. The IPCC's recent report advised limiting temperature increases to below 1.5°C, but acknowledged that to do so would require "unprecedented changes" in all aspects of socio-economic life.[17]

Natural disasters are not new, but they are becoming more severe and more people are in harm's way. 1998 is recalled as the year that "the world burned."[15] Two decades on, regional climates have become drier and hotter, and wildfires were even worse this past year. Significant new levels of flooding, and powerful hurricanes and typhoons, also recur. In light of prospects for an increased scale of disasters, States have cooperated to develop the "*Sendai Framework on Disaster Risk Reduction*."[18] The Sendai Framework would benefit from having a stronger environmental law foundation and treaty mechanisms to help States prepare for and build resilience to recover from disasters. Recognizing an international Principle of Resilience could animate States to adopt more effective national policies to avert, to prepare for, and to recover from natural disasters.[19]

As the global population of humans is projected to grow from 7.5 billion today to 9 billion in 2050, all States will benefit from enhanced cooperation to sustain a healthy environment, provide for food production, and cope with the ecological impacts of rapid declines in biological diversity. There are many ways to do so.[20] As President Xi Jinping of China has observed, "It is high time that we intensified eco-environmental protection. And we are capable of accomplishing this task now."[21] China is moving toward a principled stewardship program of "ecological civilization,"[22] which aligns government practices and budgets with ecological stewardship. Other guides, such as the Earth Charter,[21] also establish normative foundations for global environmental stewardship. In responding to the Secretary-General's Report, States have an opportunity to enhance the effectiveness of international environmental law. The ad hoc open ended working group scheduled to meet in Nairobi under UN General Assembly resolution 72/277 will provide an opportunity for States to develop an effective global approach.

Peace, security, and sustainable development depend on maintaining a healthy and stable environment. The destabilizing effect of events like recurrent wildfires can be seen both

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[17] Intergovernmental Panel on Climate Change Special Report 15, "Global Warming of 1.5 C" 6 October 2018, at www.ippc.org. To attain acceptable temperature levels, by 2030 global carbon dioxide emissions need to fall to 45% of 2010 levels, and by 2050 it will be necessary to scrub the greenhouse gases from the atmosphere by vastly wider use of photosynthesis by plants (from marine phytoplankton to forests). As Joyeeta Gupta and Karin Arts indicate, "The reality is that transformational changes in development patterns are required for achieving a 2ºC world and yet more radical changes if one is to reach the ore stringent target of 1.5ºC" Gupta, J & Arts, K. Int.Env.Agreements (2018) 18:11. http://doi.org/10.1007/s10784-017-9376-7. [15] See Nicholas A. Robinson, Forest Fires As A Common International Concern: Precedents for the Progressive Development of International Environmental Law, 18 *Pace Envtl. L. Rev*. 459 (2001), at http://digitalcommons.pace.edu/lawfaculty/375/.

[18] Sendai Framework for Disaster Risk Reduction, at https://www.unisdr.org/we/inform/publications/43291

[19] See also the International Law Commission's draft articles on the protection of persons in the event of disasters; Official Records of the General Assembly, Seventy-first Session, Supplement No. 10 (A/71/10); UN GA res. A/res/71/141 (13 December 2016) (recommending to the General Assembly the elaboration of a convention on the basis of the draft articles on the protection of persons in the event of disasters).

[20] See, e.g., the studies of the Stockholm Resilience Center, at www.stockholmresilience.org.

[21] Xi Jinping, The Governance of China II (Foreign Languages Press, 2017), p. 425.

[22] Zhu Guangyao, "Ecological Civilization – A National Strategy for Innovative, Concerted, Green, Open and Inclusive Development, *Our Planet* (UN Environment, March 2016); see also Paul Baressi, "The Role of Law and the Rule of Law in China's Quest to Build an Ecological Civilization," 1:1 Chinese J. of Envtl Law 9-36 (2017). [21] See www.earthcharter.org.

domestically as human lives and nature are impacted and also when transboundary pollution spreads the harm more widely, people are displaced, and regional ecological integrity is threatened.[23] In 2018, wild fires were more severe again, afflicting alike, without distinction, both developed and developing States. This "new normal" requires new responses from governments. The IPCC attributes this escalating scale and severity of natural disasters to climate change. The pattern of increasing threats to the environment makes it plain that more consensus is needed to accelerate efforts to implement the SDGs through the United Nations 2030 Agenda. Principles of environmental law have a key role to play in this effort.

Furthering the Progressive Development of Environmental Law

Following the 1972 Stockholm Conference, States have increasingly promoted the field of international environmental law to prevent environmental degradation and guide socioeconomic development toward sustainability. The 1987 UN World Commission on Environment and Development ("Brundtland Commission"), in its report "Our Common Future," called for the elaboration of environmental law.[24] Agenda 21 delineated steps that States should undertake to strengthen national and international environmental law in chapters 8 ("Integrating environment and development in decision-making"), 37 ("National mechanisms and international cooperation for capacity building in developing countries"), 38 ("International institutional arrangements"), and 39 ("International institutional arrangements"). States agreed to these recommended measures by consensus. The motivation for consensus at the 1992 Rio Conference on Environment and Development is characterized by Russian Federation President Boris Yeltsin: "Our common aspiration should be not just the survival but the life – a life worthy of mankind – of our great homeland, the uniquely beautiful planet Earth."[25]

The thoughtful recommendations of Agenda 21 for international environmental law and governance deserve to be revisited. They have not been fully implemented. These pending recommendations represent a kind of "gap" which is not examined in the Secretary-General's report. Many recommendations in Agenda 21 have been implemented, resulting in improved cooperation between States on international institutional arrangements for environmental goals, evidence of its potential.

Between 1972 and 2018, States have cooperated progressively to develop the field of environmental law. The multilateral environmental agreements (MEAs), along with the many regional agreements, are founded upon a set of agreed principles and obligations.[26] The fact that States share a set of universally agreed principles is not widely recognized, because international

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[23] See S. Jayakumar, Tommy Koh, Robert Beckman, and Hao Duy Phan, Transboundary Pollution, Evolving Issues of International Environmental Law (Edward Elgar, 2015).

[24] Our Common Future (1987), at http://www.un-documents.net/our-common-future.pdf . The Report had a detailed appendix on the need for further environmental law development. Those recommendations remain to be fully implemented.

[25] Agenda Item 9, Letter dated 9 June 1992, from the Deputy Head of the Delegation of the Russian Federation to the Secretary-General of the United Nations Conference on Environment and Development, transmitting the Address of the President of the Russian Federation, A/CONF.151/18 10 June 1992, reproduced at pp. 885-888, vol. 4, Agenda 21 and the UNCED Proceedings (Nicholas A. Robinson, editor, Oceana Publications, 1993, in 6 volumes, the *traveaux préparatoires* of UNCED).

[26] For more information on the institutions created within the MEA's, see Bharat Desai, Multilateral Environmental Agreements. Legal Status of the Secretariats (Cambridge University Press, 2010).

environmental law is often thematic and largely directed to managing, protecting, or conserving specific parts of the biosphere, such as the stratospheric ozone layer or the Antarctic Ocean; or on human impacts, such as the release of toxic chemicals that are persistent organic pollutants, or the trade in endangered species. Despite this appropriate regional and sectoral focus, all aspects of international environmental law are guided by a shared vision, which is to organize human activity to safeguard the biosphere. This unity of purpose is obscured because international environmental law is often seen through its parts, not its whole.

States understandably focus on the separate parts of international environmental law because of the importance they give to the national implementation of each agreement. However, in practice, States generally assign implementation of their international environmental obligations to different ministries or authorities, and rarely have a single cabinet-level office to oversee all of them. The Secretary-General's Report is valuable in providing States an overview of international environmental law, which is otherwise difficult to obtain. Moreover, environmental ministries within States and at the local level are typically under-resourced and hard-pressed to implement their duties. There is little opportunity to share best practices with authorities in other regions, or internationally. For these reasons, it is difficult for governments to learn how others cope with the same problems. Too few are aware that other States have adopted and embraced the same general principles of environmental law across all sectors. International secretariats and UN Environment lack the resources to play such an informational role and address this situation.

As the UN Secretary-General's Report accurately indicates, international environmental law consists of specialized agreements. This is a strength. Although increased coordination between related sectoral conventions is desirable, it is not appropriate to characterize the wide range of specialized agreements as representing some kind of dysfunctional fragmentation. Shared principles and comparable administrative programs produce effective remedial measures in similar ecological conditions, in all regions. For example, implementation of the Vienna Convention to Protect the Stratospheric Ozone Layer, and its Montreal Protocol and other derivative agreements[27] is a justly celebrated example of integrated global action to collectively protect a common resource. Regional cooperation is also productive, but few regions have occasion to learn what other regions do. For example, even in the case of legal regimes for one medium, the marine environment, it is perhaps not surprising that the Regional Seas Programme for the Baltic (Helsinki Agreement)[28] is not much in contact with the Regional Seas Programme for the Mediterranean (Barcelona Agreement)[29] or with the Agreements for the Wider Caribbean Sea[30] or the Gulf (Kuwait Agreement) or the Red Sea or with the cooperative programmes in the South Pacific (SPREP) or North Atlantic (OSPAR).[31] As the Report of the UN Secretary-General

[27] See the Handbook for the Montreal Protocol on Substances the Deplete the Ozone Layer (2006), at https://unep.ch/ozone/Publications/handbook/MP__Handbook_2006.pdf

[28] Helsinki Convention for the Protection of the Baltic Sea Area (HELCOM), at http://www.helcom.fi/about-us/convention

[29] The Barcelona Convention for the Protection of the Mediterranean Sea, (which also helped promote the wider Mediterranean Union) at https://web.unep.org/unepmap/1-barcelona-convention-and-amendments

[30] The 1983 Cartagena Convention for the Wider Caribbean, at http://www.cep.unep.org/cartagena-convention

[31] See these regional seas agreements at https://unep.ch/conventions/rscaplist.htm

observes, there would be benefits from a "comprehensive and unifying international instrument clarifying all the principles of environmental law."[32]

Providing References to Principles for the 2019 Consultations in Nairobi

The General Assembly requested that its *ad hoc* open-ended working group report on its forthcoming consultations by June 2019. As Ambassador Macharia Kamau has observed, "Most of what we have come to accept as the body of international norms and legislation that govern our global system of cooperation, humanitarian support, and peace and security is negotiated, endorsed, legislated, and enforced through this system of agencies, council and offices. Mastering the functions and operations of this global multilateral system takes years, if not decades, of engagement and practice."[33] Because States have and already share a wide consensus about principles of international environmental law, previous investments of diplomatic time and capacity mean that the General Assembly's timetable is realistic.

States' delegates have a brief period of time in which to study the Secretary-General's report and prepare for the forthcoming 2019 consultations on International Environmental Law. They have only 45 days, followed by the six months of consultations. Their mission deserves cooperation and support, for the reasons cited in Res. 72/277. Accordingly, a working group of experts convened by ICEL, in cooperation with the IUCN World Commission on Environmental Law and the International Group of Experts for the Global Pact for the Environment, has prepared this Note and supporting studies.

ICEL has undertaken studies to provide States with the tools that enable them to secure this overview of existing commitments, in cooperation with the Vance Center of the New York City Bar and the international law firm of White & Case. ICEL has assembled this information in a set of Charts (the "**ICEL Charts**," 5 September 2018).[34] The Charts identify general principles adopted within multilateral environmental agreements and regional agreements for: the African Union (AU), the Association of South East Asian States (ASEAN), the Caribbean Community (CARICOM), the Commonwealth of Independent States (CIS), the League of Arab States (Arab League), the Organization of American States (OAS), the South Asian Cooperative Agreement (SACEP) and the Pacific Islands Forum and similar studies are underway for all other regional groups. The States of the European Union are party to the same set of agreements,[35] and Brazil, China, Japan, Russia and the United States have accepted most of the same principles. ICEL has

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[32] UN Secretary-General's Report on "Gaps in International Environmental Law and Environment-Related instruments: Towards a Global Pact for the Environment" (A/73/419, 30 November 2018), paragraph 10, p 7.

[33] Macharia Kamau, Preface to M. Kamau, P. Chasek and D. 0'Connor, Transforming Multilateral Diplomacy – The Inside Story of the Sustainable Development Goals (Routledge, 2018).

[34] See the Appendix to this Note for the links providing access to the ICEL Charts. The ICEL Charts may be accessed on the websites of the Law Library at the Elisabeth Haub School of Law, New York (https://libraryguides.law.pace.edu/icel,) and IUCN's World Commission on Environmental Law (https://www.iucn.org/news/world-commission-environmentallaw/201812/global-pact-gap-report-released-un-environment)
ICEL also is disseminating its ICEL Charts to States as references for their participation in the Nairobi consultations.

[35] See Environmental Law, Magazine *ENVIRONMENT* for Europeans, (19 January 2018), at https://ec.europa.eu/emvironmnet/efe/themes/evironmental_law_en ; and Jan H. Jans and Hans H.B. Vedder, European Environmental Law (2009. 3rd edition).

assembled a Chart indicating the legal foundation provided by these agreed principles of international environmental law for each of the UN Sustainable Development Goals.

The ICEL Charts reveal the consensus on principles and objectives in international environmental law. They complement the discussion in the Secretary-General's Report. This Note touches upon several of the recommendations in the UN Secretary-General's report: (a) the progressive development of international law with respect to general principles of international environmental law and their codification;

(b) gaps in existing international environmental agreements;

(c) the relationships of environmental agreements with instruments in other fields of international law;

(d) gaps in the governance frameworks;

(e) the implementation and effectiveness of international environmental law, and

(f) the role of international environmental law in ensuring attainment of the UN Sustainable Development Goals and the 2030 Development Agenda.

A. General Principles of International Environmental Law

Part II of the Secretary-General's Report addresses general principles of international environmental law. The Report's useful observations can be endorsed and also expanded upon.

International recognition of the principles of environmental law has roots in the 1972 UN Stockholm Conference on the Human Environment, which adopted the Stockholm Declaration. The Declaration's preamble states that "Man is both creature and moulder of his environment, which gives him physical sustenance and affords him the opportunity for intellectual, moral, social and spiritual growth. In the long and tortuous evolution of the human race on this planet a stage has been reached when, through the rapid acceleration of science and technology, man has acquired the power to transform his environment in countless ways and on an unprecedented scale. Both aspects of man's environment, the natural and the man-made, are essential to his well-being and to the enjoyment of basic human rights the right to life itself."[36]

In light of these and other considerations, the Stockholm Conference proclaimed an environmental right and duty in its first principle. This was based on the assumption that the Earth's environment was stable and capable of being sustained: "Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations." Principle 2 provided that: "The natural resources of the earth, including the air, water, land, flora and fauna and especially representative samples of natural ecosystems, must be safeguarded for the benefit of present and future generations through careful planning or management, as appropriate."[36] These principles set the

[36] Preamble paragraph 1, Stockholm Declaration on the Human Environment, at www.un-documents.net/unchedec.htm; see Ben Boer, "Environmental principles and the right to environment," in Ludwig Krämer and Emanuela Orlando (eds.), Principles of Environmental Law, Elgar Encyclopedia of Environmental Law, Vol. VI, 52, 57 (2018). [36] Stockholm Declaration, Principle 1.

stage for subsequent deliberations about how to more clearly recognize and observe the right to the environment.

Since 1972, principles of international environmental law have been elaborated and refined. Their virtue, as ICEL Member Winfried Lang noted, is that they serve to build agreement and cooperation. Surveying the views of other ICEL members for an article in the Max Planck UN Year Book,[37] he stated: "[Alexandre] Kiss-[Dinah]Shelton linked the adoption of principles to the progressive development of international law, but as professional lawyers they agree that such principles cannot stand alone but need transformation into binding obligations in order to play their role in international life. [Paul] Szasz, with his life-long experience in law-making in the UN context, stressed the important role of legislative declarations as they may be precursors to and guide a later treaty-making process and are designed to influence the conduct of states directly."[38] Lang further observed that "French scholars distinguished by the mid-eighties between '*principes directeurs*' and '*principes inspirateurs*.' Among the former they included environmental impact assessments, information and consultation, early warning in case of accidents, non-discrimination and equal treatment. In the second group were mentioned sovereignty in exploiting one's natural resources, solidarity and cooperation, equitable utilization of common resources, safeguarding of the common heritage of mankind."[38] Lang goes on to identify principles as they appear in different environmental agreements, not unlike the ICEL Charts.

Since Lang wrote, the consensus about existing principles of international environmental law has become wider and more refined.[39] Many principles are now "accepted" (e.g. public participation in environmental decision-making) while others remain as "emerging" (e.g. intergenerational equity, and duties to future generations). Moreover, as Emanuela Orlando and Ludwig Krämer observed "alongside widely recognized environmental principles at the international law level, and across different jurisdictions world-wide other environmental principles have emerged in particular legal systems, reflecting the needs, aspirations and objectives of that particular culture and legal traditions. This is the case for example in the 'protection first' principle in China, or the public trust doctrine, which inherited from the US, is being increasingly used in environmental cases by courts in India and in Sri Lanka."[40]

The present consultations on principles of international environmental law, therefore, may need to evaluate those which are widely accepted and those which are emerging. Of the former, it is appropriate to codify them in a single agreed text. In cases where more than one expression of the principle is found a single agreed text would "provide for better harmonization, predictability and certainty" in international environmental law.[41] Some emerging

[37] Winfried Lang, "UN-Principles and International Environmental law, Max Planck Year Book of United Nations Law, UNYB 3 (1999), at http://www.mpil.de/en/pub/publications/periodic-publications/max-planck-yearbook/volume-3.cfm [38] Id., p. 158.
[38] Id., at p. 161. See also Maurice Kampto, "Les Nouveaux principes du droit de l'environnement," *Revue juridique de l'environnement* 18:1 (1993) at 11-21.
[39] Philippe Sands, Principles of International Environmental Law (Cambridge 2d edition, 2003).
[40] Ludwig Krämer and Emanuela Orlando, "Introduction," *in* Ludwig Krämer and Emanuela Orlando (eds.), Principles of Environmental Law, Elgar Encyclopedia of Environmental Law, Vol. VI, 2 (2018).
[41] UN Secretary-General's Report on "Gaps in International Environmental Law and Environment-Related instruments: Towards a Global Pact for the Environment" (A/73/419, 30 November 2018), paragraph 102, p. 43.

principles may be important enough to acknowledge in such text as the progressive development of the law is necessary as real-world conditions change.

As Shailendra Kumar Gupta includes the following principles as being widely accepted:[42]

"(1) Principle 21 of the Stockholm Declaration and Principle 2 of the Rio Declaration, namely that states have sovereignty over their natural resources and the responsibility not to cause environmental damage;

(2) The principle of preventive action;

(3) The principle of good neighborliness and international co-operation;

(4) The principle of sustainable development;

(5) The precautionary principle;

(6) The polluter-pays principle; and

(7) The principle of common but differentiated responsibility."

There is a large body of additional principles that some scholars would add to these.[43] The UNEP Manual described these principles in Chapter 3. The additional principles are (1) Sustainable Development; (2) Inter-Generational and Intra-Generational Equity; (3) Responsibility and Transboundary Harm; (4) Transparency, public participation and access to information and remedies; (5) Cooperation and Common But Differentiated Responsibilities; (6) Precaution; (70 Prevention; (8) Polluter pays; (9) Common Heritage and Common Concern of Mankind; (11) Good Governance. There are significant commentaries about how to observe and use principles to promote sustainable development, as for example in China through environmental management practices.[44]

The Secretary-General's Report describes nine principles (paragraphs 11-22). In addition to the principles set forth above, the Report adds the right to a healthy environment, and the Principles of Non-Regression and Progression, but does not address Inter-Generational or

[42] Shailendra Kumar Gupta, "Principles of International Environmental law and Judicial Response in India," at p. 3 (Benares Hindu University, Varanasi, India).

[43] UNEP Manual, chapter 3. See Marie-Claire Cordonier Segger "Commitment to sustainable development through international law and policy", in Marie-Claire Cordonier Segger and H.E, Judge C.G. Weeramantry, eds., Sustainable Development Principles in the Decision of International Courts and Tribunals 1992-2012 (Routledge, 2017), pp. 29-98. See also, Nico Schrijver, "Advancement in the principles of international law on sustainable development", in Marie-Claire Cordonier Segger and H.E, Judge C.G. Weeramantry, eds., Sustainable Development Principles in the Decision of International Courts and Tribunals 19922012, pp. 99.-108.

[44] See Xiangbai He, Setting the Legal Enabling Environment for Adaptation Mainstreaming into Environmental Management in China: Applying Key Environmental Law Principles, 17 Asia Pac. J. Envtl. L. 23 (2014). See also Yuhong Zhao, "Environmental Principles in China", Principles of Environmental Law, Elgar Encyclopedia of Environmental Law, Volume VI (Elgar, 2018), pp. 424-436; Olga Dubovik and Alla Röhrict, "Principles of Russian Environmental Law", in Principles of Environmental Law, Elgar Encyclopedia of Environmental Law, Volume VI, pp. 437-448; Samudu Atapattu, "Environmental Law principles in Asia", in Principles of Environmental Law, Elgar Encyclopedia of Environmental Law, Volume VI, pp. 433-475; Hennie Strydom, "Environmental principles in Africa", in Principles of Environmental Law, Elgar Encyclopedia of Environmental Law, Volume VI, pp. 494-506.

IntraGenerational Equity. The 1972 Stockholm Declaration embraces the right to the environment as a fundamental principle, as well as the principles associated with the duties of States to care for the environment and to enact effective laws to safeguard the environment. Principle 17 of the Rio Declaration obliges States to undertake environmental impact assessment in national decisionmaking impacting on the environment, and this norm has become accepted as customary international law;[45] the draft Global Pact and the Secretary-General's Report list this duty as one aspect of the Principle of Prevention. The Expert Group that prepared the draft Global Pact for the Environment includes the principle of caring for the Earth in Article 2 and set forth the Principle of Resilience in Article 16, and although both are implicit in other principles (e.g.
prevention and precaution), there is value in expressing them in their own right.

This brief description of the international principles of environmental law lends support to the observation in the Secretary-General's Report regarding the importance of States coming to agreement on a common set of core principles to guide international environmental law. Agreeing to principles in a new Global Pact would provide certainty to the relations among States. The Nairobi consultations could agree on and restate the core principles of international environmental law. This is part codification, and part progressive development of law, which is within the General Assembly's mandate under article 13(1) of the UN Charter.

Expert commentaries about these general principles tend to agree on a core set of principles and diverge as to new or emerging principles. States themselves have determined the roster of accepted principles by including them in international agreements. This is considered the best evidence of core principles that are candidates for codification. The ICEL Charts found in the Appendix to this Note list these agreed principles.[46]

The most cited provision of the 1972 Stockholm Declaration is Principle 21, governing State obligations and rights. Principle 21 provides that: "States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction." This poses a problem: how can States know when their conduct may harm a neighbor of the commons? It would seem that the principles of prevention and precaution preclude such transboundary harm, and observing Rio Principle 17 on environmental impact assessment would enable States to observe their duty not to harm neighbors of the commons. In order to guide State practice and to build capacity for States to observe Principle 21, States will need to understand their reciprocal and shared duties. For this reason alone, States should formally acknowledge that they share a common set of principles that would further this objective.

[45] *Pulp Mills on the River Uruguay (Argentina v. Uruguay), Judgment, I.C.J. Reports 2010,* www.icj-cij.org/en/case/135*; Responsibilities and Obligations of States Sponsoring Persons and Entities with Respect to Activities in the Area, Advisory Opinion, Case No. 17, International Tribunal for the Law of the Sea Reports 2011.*

[46] See also Cymie R. Payne, "A Global Pact for the Environment," 22:12 Am. Soc. Intl L. Insights (2018), available at https://www.asil.org/insights/volume/22/issue/12/global-pact-environment.

B. Gaps in existing international environmental agreements

The analysis in Part II of the Secretary-General's Report is sound. A multifaceted response is called for and we encourage the several conferences of the parties under international agreements, as well as the UN General Assembly, to address the gaps identified where they have authority to do so. A response to this part of the Report requires substantially more time than provided for the Nairobi consultations in 2019. It is worth noting that, despite some gaps and limitations, there is positive international cooperation under all of the international environmental agreements. This reflects the findings that Nobel Laureate Dr. Elinor Ostrom established,[47] that when parties understand their shared dependence on common pool resources, they evolve ways to cooperate effectively together. The Secretary-General's Report is prudent in citing Ostrom's research,[48] which rebuts the theory that there is always a "tragedy of the commons." Ostrom's studies indicate that agreeing on clear rules leads to cooperation to sustain shared resources. The General Assembly has experienced this phenomenon in both the consensus on the SDGs and also in the on-going negotiation regarding conservation and sustainable use of biodiversity in areas beyond national jurisdiction (BBNJ). State practice under the Montreal Protocol for protection of the Stratospheric Ozone layer also reflects Ostrom's findings. The consultations in Nairobi may wish to recommend that priority be given to enhancing the effectiveness of international law in the areas identified in section II of the Secretary-General's Report.

C. Environment-related instruments: Relationships of environmental agreements with instruments in other fields of international law

The UN Secretary-General's report assesses the lack of coherence and synergy among environment-related instruments—specifically on trade, investment, intellectual property and human rights—to conclude that "the articulation between multilateral environmental agreements and environment-related instruments remains problematic owing to the lack of clarity, contentwise and status-wise, of many environmental principles."[49]

With respect to trade and environment, the UN Secretary-General's report notes "a widening gap between these two normative regimes."[50] On the trade side, the Doha Round of negotiations had agreed to confer about how to reconcile international law regimes for environmental protection and for trade, but this never happened. Article XX of the General Agreement on Tariffs and Trade remains a critical norm. However, national implementation of

[47] Elinor Ostrom, Understanding Institutional Diversity (2005), at p. 286.

[48] UN Secretary-General's Report on "Gaps in International Environmental Law and Environment-Related instruments: Towards a Global Pact for the Environment" (A/73/419, 30 November 2018), paragraph 22, Note 77, citing E. Ostrom, Governing the Commons: The Evolution of Institutions for Collective Action (1990).

[49] UN Secretary-General's Report on "Gaps in International Environmental Law and Environment-Related instruments: Towards a Global Pact for the Environment" (A/73/419, 30 November 2018), Summary. See Gilles J. Martin, "Principles and rules", in Principles of Environmental Law, Elgar Encyclopedia of Environmental Law, Volume VI 13-22. See also Teresa Fajardo, "Environmental law principles and general principles of international law", in Principles of Environmental Law, Elgar Encyclopedia of Environmental Law, Volume VI 38-51.

[50] UN Secretary-General's Report on "Gaps in International Environmental Law and Environment-Related instruments: Towards a Global Pact for the Environment" (A/73/419, 30 November 2018), paragraph 71.

the GATT Article XX's phytosanitary controls is often inconsistent and would benefit from harmonization. Current implementation is proving too weak to prevent infection across borders. On the environmental law side, the Convention on International Trade in Endangered Species (CITES)[51] is a robust regime that provides norms and procedures to ensure that trade does not cause the extinction of species. The Montreal Protocol has a successful fund that assists developing nations to phase out the manufacture and trade in ozone depleting substances and to finance national focal points to implement trade restrictions on banned substances.[52] While the principle of sustainable development has become an integral part of the world trading system,[53] and provides "color, texture and shading" to the interpretation trade agreements, there is no binding agreement articulating the prerequisites for sustainable trade practices. A coherent set of environmental law principles could contribute to stabilizing world trade law and averting future environment-related trade disputes. In sum, "environmental principles can play a role in reconciling international law with trade law, and balancing trade with environmental interests."[54]

This is also the case for investment and intellectual property legal instruments. The UN Secretary-General's report notes normative gaps "because the specific environmental concerns explicitly addressed in these agreements are limited."[55] In particular, gaps between the regimes of the Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) under the World Trade Organization and the Convention on Biological Diversity are evident.[56] The consultations to harmonize rules and practices under these two regimes came to a halt after the Doha Round of Trade negotiations stalled. A comprehensive and unifying set of environmental law principles would guide the search for ways to reconcile competing economic, social and environmental objectives.[57]

With respect to human rights, while the connections between a healthy environment and the effective enjoyment of human rights are well recognized by human rights bodies and tribunals,[58] as noted in the UN Secretary-General's report, gaps exist between sources of human rights law and environmental law.[59] In this regard, clarification and reinforcement of principles

[51] https://www.cites.org

[52] Donald Kaniaru, "The Montreal Protocol: Celebrating 20 Years of Environmental Progress: Ozone Layer and Climate Protection," UNEP/Earthprint 2007.

[53] See Markus Gehring and Alexandre Genest, "Disputes on sustainable development in the WTO regimes", in Marie-Claire Cordonier Segger and H.E, Judge C.G. Weeramantry, eds., Sustainable Development Principles in the Decision of International Courts and Tribunals 1992-2012, pp. 382-383. See also Kati Kulovesi and Sabaa Khan, "Environmental principles in trade relations", in Principles of Environmental Law, Elgar Encyclopedia of Environmental Law, Volume VI, pp. 644-657.

[54] See Kati Kulovesi and Sabaa Khan, "Environmental principles in trade relations", in Principles of Environmental Law, Elgar Encyclopedia of Environmental Law, Volume VI, p. 656.

[55] UN Secretary-General's Report on "Gaps in International Environmental Law and Environment-Related instruments: Towards a Global Pact for the Environment" (A/73/419, 30 November 2018), paragraph 73. See also David M. Ong, "Environmental principles in international investment law", in Principles of Environmental Law, Elgar Encyclopedia of Environmental Law, Volume VI, pp. 658-672.

[56] Makane Moïse Mbengue and Urs O. Thomas, "The Precautionary Principle: Torn Between Biodiversity, environment-related food safety and the WTO," *International Journal of Global Environmental Issues*, 5.1-2 (2005), pp 36-53.

[57] See Henning Grosse Ruse-Khan, "The principle of integration in WTO/TRIPS Jurisprudence", in Marie-Claire Cordonier Segger and H.E, Judge C.G. Weeramantry, eds., Sustainable Development Principles in the Decision of International Courts and Tribunals 1992-2012, p. 398.

[58] Manual on Human Rights and the Environment (2d Edition, 2012, Council of Europe), at www.echr.coe.int/Library/Docs/DH_DEV_Manual.

[59] UN Secretary-General's Report on "Gaps in International Environmental Law and Environment-Related instruments: Towards a Global Pact for the Environment" (A/73/419, 30 November 2018), paragraph 76.

of international environmental law, as well as the recognition of a stand-alone right to a healthy environment, could provide a more balanced reconciliation of economic, social, and environmental rights.[60] Moreover, this reconciliation approach of different rights at the intersection of environment and development—"the very essence of sustainability"[61]—would be a useful contribution to the implementation of the sustainable development goals and the UN 2030 Agenda.

Recognition of the right to a healthy environment as a human right has been acknowledged since the 1972 Stockholm Conference. The right to development dates back to the 1980s, and since 1992, as ICEL member Ben Boer has argued, "the principle of sustainable development suggests that the right to development is to be balanced with and constrained by the right to a clean, safe, healthy and sustainable environment."[62] To ensure that this is understood juridically, States should "agree on a legal instrument that reflects the current regional agreements which include recognition of the right to a quality environment, with focus both on the substantive elements as well as on robust means of implementation. The barriers to proclaiming a clearly articulated and unambiguous right to a quality environment at a global level are falling away. The question is now not if, but when, a global instrument containing such a right will be opened for signature and eventually enter into force."[63]

D. Gaps relating to the governance structure of international environmental law

International Environmental Law has evolved rather quickly over the last four decades. Developing nations have played a leading role in the design and implementation of new environmental law as they have seen factual evidence of environmental harm.[64] These agreements are generally issue-specific or targeted to conditions in particular geographic areas. As noted above, this gives the field the appearance of being fragmented. An internationally agreed set of overarching principles would help give unity to instruments of varied scope and legal nature.

Clarity and consistency in defining these core principles, in a legal instrument, would simplify the complex task of operationalizing environmental agreements. The multiplicity of agreements has made it difficult for States to provide sufficient national civil servants and diplomats to participate in all the international regimes. It has also led to concerns about legal

[60] Stephanie Safdi and Sébastien Jodoin, "The principle of sustainable development in the practice of UN human rights bodies", in Marie-Claire Cordonier Segger and H.E, Judge C.G. Weeramantry, eds., Sustainable Development Principles in the Decision of International Courts and Tribunals 1992-2012, p. 467.
[61] Ibid., p. 468.
[62] See Ben Boer, "Environmental principles and the right to a quality environment", in Principles of Environmental Law, Elgar Encyclopedia of Environmental Law, Volume VI, p. 73.
[63] Ibid.
[64] See, e.g., Parvez Hassan, "Role of the South in the Development of International Environmental Law," Chinese Journal of Environmental Law 1 (2017) 133–157; and Adil Najam, "Developing Countries and Global Environmental Governance: From Contestation to Participation to Engagement," in International Environmental Agreements: Politics, Law and Economics(September 2005), Volume 5, Issue 3, pp 303–321.

inconsistencies and institutional fragmentation[65] and a lack of legal certainty. Scholars around the world have noted this situation widely.[66] There is an "urgent need to strengthen the UN's environmental institutions and governance framework".[67]

There are more than 500 international environmental agreements[68] that directly or indirectly relate to the environment. This variety of normative instruments cover a diverse spectrum of issues, such as loss of biological diversity, atmospheric pollution, the deterioration of the oceans or the soil, or the problem of deforestation, among many others.[69] To this profusion of norms, a plethora of policymaking organs has to be added to complete the dominant heterogeneity. Indeed, the MEAs have created their own specific set of institutions (such as the Conference of the Parties, Secretariats, etc.) to ensure the proper functioning of the agreements.[70] The severity of the state of the environment[71] caused by anthropogenic stress on the Earth, evidences the critical need for reform within this institutional framework.[72]

Among the numerous global and regional institutions, UNEP was intended to be the "leading environmental authority in the United Nations system".[74] Since its creation in 1972,[73] UNEP has tried to consolidate robust environmental standards and practices while guaranteeing compliance with them. However, it has faced many problems,[74] mostly due to its own organizational structure and to the lack of proper funding,[75] which has led to various restructuring attempts.[76]

A variety of proposals have been made to provide States with more coherent oversight of international governance for the Earth's environmental systems. Among the proposals to improve the effectiveness of the international environmental governance is the establishment of a

[65] Pauwelyn, Joost. "Bridging fragmentation and unity: International Law as a universe of inter-connected islands." *Mich. J. Int'l L.* 25 (2003): 903.

[66] Including the Global South: Najam, Adil, Ioli Christopoulou, and William R. Moomaw. "The emergent 'system' of global environmental governance." *Global Environmental Politics* 4.4 (2004): 23-35.

[67] Bharat H Desai, "The Quest for a UN "Specialized Agency" for the Environment" (2012) 1010 (60) The Round Table 171, and "On the Revival of the United Nations Trusteeship Council with a New Mandate for the Environment and the Global Commons" *Yearbook of International Environmental Law*, Vol. 27, Nº 1 (2016) 16.

[68] Kanie, Norichika. "Governance with Multilateral Environmental Agreements: A Healthy or Ill-equipped Fragmentation?" *Green Planet Blues: Critical Perspectives on Global Environmental Politics* (2014): 137.

[69] Geoffrey Palmer, "New Ways to Make International Environmental Law", 86 AM. J. INT'L L. 259, 263 (1992).

[70] Indeed, international environmental institutions acquire their own character once they are established and start functioning. See Desai, Bharat. Institutionalizing International Environmental Law (Transnational Publishers, 2004).

[71] IPCC *Global Warming of 1.5 ºC. Summary for Policymakers* (2018).

[72] See Ivanova, Maria. "Global governance in the 21st century: rethinking the environmental pillar." Stakeholder Forum (2011). [74] UNEP, United Nations Environmental Program, https://www.un.org/youthenvoy/2013/08/unep-united-nations-environmentprogramme/

[73] Institutional and financial arrangements for international environmental cooperation, UN doc. A/res/27/2997 (1972), available at: http://www.un-documents.net/a27r2997.htm .

[74] The current UNEP is not strong and ambitious enough to tackle the environmental problems. See Bharat H Desai, International Environmental Governance: Towards UNEPO *(*Brill/Nijhoff, 2015).

[75] Bharat H Desai, "UNEP: A Global Environmental Authority*?" Env. Policy and Law*, 36/3-4 (2006) 140.

[76] Ivanova, Maria. "Institutional design and UNEP reform: historical insights on form, function and financing." *International Affairs* 88.3 (2012): 565-584.

World Environment Organization[77] as a UN specialized agency rather than a UN programme.[78] A WEO is envisioned as a more centralized institution that would improve decision-making processes, implementation and co-ordination in international environmental governance.[79] Other proposals would merge UNDP and UNEP, constituting a UN Sustainability Programme. It would report to the UN Economic and Social Council, which would function as an Ecological, Social and Economic Council. Alternatively, ICEL member Bharat H. Desai has urged that oversight be vested in a UN "Environmental" Trusteeship Council.[82] Currently, the UN Environment Assembly and the UNGA Second Committee are responsible for oversight of global environmental governance and policy. The UN General Assembly launched the High-Level Political Forum in July of each year, to measure implementation of the UN Sustainable Development Goals. One efficient way to achieve global coherence could be provided by the adoption of a common set of agreed principles.

Whatever governance approaches may be considered, there is increasing recognition of the role of non-state actors in international environmental law, acknowledging that international relations have evolved beyond States and the "Westphalian model"[80] of state sovereignty. Nonstate actors are increasingly participating in international environmental negotiations,[81] albeit often in an informal fashion, without clear rules regarding the scope of their involvement. In a world of social media, it is possible also to engage local communities in debates about their environmental futures. Systems of international environmental law need to explore further how to observe Rio Declaration Principle 10, on "public participation in environment decisionmaking."[82]

There is a wide consensus in support of more effective coordination among international environmental instruments and institutions. The IPCC Special Report "Global Warming of 1.5°C" projects that States have only ten years to improve coordination, before harms become insufferable. The accelerating warming of Earth's atmosphere does not allow any further procrastination. Strengthening international environmental legal systems is essential to achieving the 2030 Agenda on sustainable development. States would benefit from having more robust institutions that could more effectively respond to their environmental problems. Codification of a set of principles would stimulate international cooperation toward the new governance structures that gradually will fill the existing gaps within the international environmental law

[77] A wide range of issues must be considered before any new inter-governmental body is to be constituted. See C.F. Amerasinghe, Principles of Institutional Law of International Organization (Cambridge 1996, 2nd edition). See also Nicholas A. Robinson, "Befogged Vision: International Environmental Governance A Decade After Rio," 27 Wm. & Mary Envtl. L. & Pol'y Rev. 299 (2002), http://digitalcommons.pace.edu/lawfaculty/372/.

[78] Kotzé, Louis. "A Global Environmental Constitution for the Anthropocene?" *Transnational Environmental Law* (2019): 1-23.

[79] S. Oberthür & T. Gehring, 'Reforming International Environmental Governance: An Institutionalist Critique of the Proposal for a World Environment Organisation' (2004) 4 *International Environmental Agreements: Politics, Law and Economics*, pp. 359–81.

[82] Bharat H. Desai, "On the Revival of the United Nations Trusteeship Council with a New Mandate for the Environment and the Global Commons." 27 *Yearbook of International Environmental Law* 3 (2016).

[80] . The Peace of Westphalia (1648) established the state sovereignty system, which became the contemporary international system of states. See Derek Croxton, *The Peace of Westphalia of 1648 and the Origins of Sovereignty*, 21 INT'L HIST. REV. 569 (1999).

[81] Raustiala, Kal. "The participatory revolution in international environmental law." *Harv. Envtl. L. Rev.* 21 (1997): 537.

[82] See, for example, "World Wide Views on Climate and Energy," 10,000 citizens, 97 Debates in 76 countries (2015, Danish Board for Technology Foundation), organized through Missions Publiques, www.missionspubliques.com [86] IUCN World Declaration on the Environmental Rule of Law, 2016.

system, "….as the legal foundation for environmental justice, global ecological integrity, and a sustainable future for all."[86]

E. Implementation and effectiveness of international environmental law

1) National Implementation

Effective implementation of international environmental law is a key element to guarantee the effective protection of the environment. States play an essential role[83] as they have full sovereignty over their territory, only limited by the supremacy and exclusivity of other State's sovereignty (principle of non-intervention, article 2.4 UN Charter).[84] Also, despite the fact that some international agreements are self-executing, most States must enact implementing regulations.[85] But even this does not ensure achieving results. Empirical studies indicate that most States fail in compliance due to factors that vary according to the specific circumstances of the State. Agenda 21 (chapter 8, Integrating environment and development in decision-making) addressed the lack of implementation and poor compliance with regulations and MEAs[86] by strengthening domestic laws and institutions and building up national capacity.[87] Solutions require promoting coordination, cooperation, legal support, education and training in environmental law matters, respecting the national priorities and specific conditions of each nation.

2) Means of implementation: financial resources, technology transfer and capacity-building

Effective MEA implementation requires efforts in education, technical assistance, voluntary compliance programmes, and importantly, financial assistance.[88] Indeed, effective implementation of MEAs requires strategic investment. Existing funding of MEAs needs to be re-evaluated and additional funding provided. The multiplication and lack of coordination among financing resources has eroded the effectiveness of efforts at sustainable development. The Addis Ababa Action Agenda[89] of the 3rd International Conference on Financing for

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[83] As Ana Barreira, *et.al.* indicate, "the States are the principal subjects in Environmental Law. They create, adopt and apply the principles and rules, establish the international organizations and allow the participation of other actors during the international legal process". Barreira, Ana, Paula Ocampo, and María Eugenia Recio. *Medio ambiente y derecho internacional: una guía práctica*. Obra Social, Caja Madrid, 2007, p. 13.

[84] Maziar Jamnejad and Michael Wood. "The principle of non-intervention." *Leiden Journal of International Law* 22.2 (2009): 345-381.

[85] Okley, Brigitte L. "Legislation and Implementation of International Environmental Law by African Countries: A Case Study of Ghana." *LLM theses* (2004): 8.

[86] Agenda 21 (chapter 8). See also The Montevideo Program, https://www.unenvironment.org/explore-topics/environmentalgovernance/what-we-do/strengthening-institutions-0 (last visited Dec 4, 2018).

[87] UNEP, *Possible Elements for a Programme in the area of Environmental Law for a Specific Period Beginning in 2020*, UNEP/ENV.LAW/MTV.4/FP.3, Geneva, 12-14 September 2018.

[88] UNEP, *Training Manual of International Environmental Law. 4. Compliance and Enforcement of Multilateral Environmental Agreements*, https://autlawiel.files.wordpress.com/2014/10/unep-tm-ch-4-compliance-and-enforcement-of-multilateralenvironmental-agreements.pdf (last accessed, Dec. 4, 2018).

[89] https://www.oecd.org/dac/gender-development/Action%20Plan%20on%20Financing%20Gender%20Equality.pdf

Development was endorsed by the General Assembly on 27 July 2015. The Addis Ababa Action Plan can be advanced by reference to the principles of international environmental law. A codified Global Pact for the Environment would accelerate international cooperation to attain both the Addis Ababa Action Agenda and the Sustainable Development Goals. As long as each separate international environmental agreement has its own scarce funding stream, there will be "duplications and contradictions" within the system.[90] Agreement on a set of general principles of international environmental law can guide States toward a more coherent financing system, which could save costs and encourage more (in quantity and effectiveness) environmental action.[91] An example of a very effective funding mechanism, as noted previously, is the Multilateral Fund for the Implementation of the Montreal Protocol, with a total budget of US $540 million for the 2018-2020 triennium, plus additional voluntary contributions.[92]

Nearly all international environmental law regimes are but minimally funded today. Yet military institutions, including NATO, have long recognized the link between the environment and security.[93] Environmental security will increasingly need to be resourced at a scale comparable to what States provide to their defense agencies. States recognized the need for such funding in Agenda 21 (Chapter 33), particularly for the developing countries. Climate change impacts will bring disruptions to all States. However, given the need to invest to build resilience and prepare, there is an unequal situation in the case of developing nations, especially small island States, which the common but differentiated responsibilities principle has acknowledged over the course of the history of international environmental law.[94] Therefore, the financial question is fundamental for the developing countries, and will be a topic of consultation in Nairobi.[95]

3) Dispute resolution and enforcement mechanisms

The UN Secretary-General's report acknowledges gaps relating to the implementation and effectiveness of international environmental law in several aspects of inter-State dispute settlement, MEA implementation, and in the enforcement of rights and obligations regarding the global commons and shared natural resources, such as the high seas, Antarctica, and outer space. Furthermore, practices under international trade and investment regimes also reveal gaps in the implementation and effectiveness of environmental norms, and such gaps in regime interaction also arise insofar as many environmental treaties do not address their relationships with economic treaties, which may give rise to distinct sources of applicable law or jurisdiction in a given dispute.

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[90] Adil Najam, Mihaela Papa, Nadaa Taiyab, "Global Environmental Governance. A Reform Agenda", IISD, Ministry of Foreign Affairs of Denmark, 2006, p. 53.

[91] d for the Implementation of the Montreal Protocol, http://www.multilateralfund.org/default.aspx (last visited, 4 Dec. 4, 2018).

[93] James. Mcquaid and Arpad Vincze, Countering Threats to Environmental Security: The Role Of Nato. in: S. Stec and B. Baraj (eds) Energy and Environmental Challenges to Security (NATO Science for Peace and Security Series), (Springer, Dordrecht, 2009).

[94] Lavanya Rajamani, "The changing fortunes of differential treatment in the evolution of international environmental law". *International Affairs, 88*.3 (2012), 605-623, p. 623.

[95] Adil Najam, Mihaela Papa, Nadaa Taiyab, "Global Environmental Governance. A Reform Agenda", IISD, Ministry of Foreign Affairs of Denmark, 2006, p. 53-54.

While enforcement of international environmental obligations is largely dependent on the effectiveness of national rule of law and administrative resources and systems in order to oversee their proper application, "it would be incorrect to dismiss or ignore the actual and potential influence that international legal principles and mechanisms may bring to bear on states to respect their basic duty to adhere to international environmental obligations."[96] Further, it should be noted that such principles also strengthen non-compliance mechanisms.[97] At the national level, there are now more than 1,500 specialized courts and tribunals that function to ensure the observance of national environmental laws. The IUCN World Commission on Environmental Law, the Organization of American States, and UN Environment have facilitated the establishment of an International Judicial Institute on the Environment, through which the courts can exchange best practices and share how they interpret the principles of environmental law across legal systems.[98] Innovative remedies, such as the use, as in the courts of South Asia, of judicially appointed commissions, are applications of international environmental law principles in specific contexts.[99]

4) Liability and redress for transboundary environmental damage

Compliance provisions in International Environmental Law have limits that help explain the failure of States to observe their Rio Declaration Principle 21 duty to prevent transboundary harm from activities under their jurisdiction and control. The Secretary-General's Report notes the halting progress of international courts and tribunals in addressing environmental harm, explaining their limitations with respect to legal principles for dealing with the particular features of such cases, and their imperfect ability to handle the scientific evidence. In contrast, it is useful to consider the arbitral tribunal in *Burlington Resources Inc. v. Republic of Ecuador*,[100] with its extensive legal analysis, and the valuation of both market and non-market environmental damage by the United Nations Compensation Commission.[101] Remedies for environmental liability and redress are only partially implemented through general international law and a handful of treaties dealing in very limited way with damage to areas beyond national jurisdiction: space, the high seas, and Antarctica; very few specify liability for risk-intensive but lawful activities.

In a world of transnational activities, this leaves the environment vulnerable, especially when a State has limited domestic enforcement capacity. Dire Tladi has addressed "the moral argument that the risks for damage should be borne by those who profit … and that a binding

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[96] See Martin Hedemann-Robinson, "Environment and sanctions", in Principles of Environmental Law, Elgar Encyclopedia of Environmental Law, Volume VI, pp. 673-697.

[97] Ibid. See also Suzanne Kingston, "Environment principles and environmental disputes and their settlement", in Principles of Environmental Law, Elgar Encyclopedia of Environmental Law, Volume VI, pp. 698-709; Marie-Claire Cordonier Segger and H.E, Judge C.G. Weeramantry, eds., Sustainable Development Principles in the Decision of International Courts and Tribunals 1992-2012.

[98] Global Judicial Institute on the Environment, at https://www.iucn.org/commissions/world-commission-environmentallaw/wcel-resources/global-judicial-institute-environment

[99] See, for example, the experience of the High Court of Lahore, Pakistan. Parvez Hassan, Resolving Environmental Disputes in Pakistan: The Role of Judicial Commissions (Pakistan Law House, 2018).

[100] ICSID Case No. ARB/08/5, Decision on Counterclaims (7 Feb. 2017).

[101] United Nations Compensation Commission, Report and Recommendations made by the Panel of Commissioners concerning the Fifth Instalment of "F4" Claims, U.N. Doc. S/AC.26/2005/10 (30 June 2005).

international regime could make this possible in a way that domestic regulation could never achieve", in the context of developing State positions during the Nagoya - Kuala Lumpur Supplementary Protocol negotiations.[102]

The Secretary General Report's explanation of the role of state responsibility in redressing transboundary environmental damage might be rounded out by noting further that the due diligence standard of care does not apply to every international wrongful act. For example, where one State entered the territory of another and damaged vegetation and other environmental features, the ICJ did not apply a due diligence standard to the intentional act of the responsible government (*Certain Activities*);[103] nor did the award in the *Trail Smelter* case, where atmospheric pollution from one State caused transboundary harm to another.[104] It is only recently that the duty to prevent transboundary harm has in some circumstances been limited to the due diligence obligation to ensure that national law provides an adequate apparatus to prevent harm.

F. International Environmental Law, the Sustainable Development Goals and the 2030 Development Agenda

Adoption of the UN Sustainable Development Goals (SDGs) is among the greatest outcomes of inter-governmental cooperation in recent years. However, the General Assembly could stimulate faster implementation of the SDGs by recognizing a set of shared environmental law principles.[105] The UN Secretary-General's Report underscores that sustainable development principles have been incorporated into the larger global agenda by the 2030 Agenda for Sustainable Development.[106] The incomplete character of international environmental law is likely to retard the attainment of all of the SDGs. If States collectively can acknowledge the environmental law principles that most of them already explicitly embrace, they are apt to cooperate more effectively in the 2030 Agenda. Moreover, adhering to these general principles of law can guide conduct in subject areas where treaties or national legislation are still lacking. The principles also would afford guidance for tribunals and specialized agencies in their decision-making.

As Macharia Kamau has explained, the global consensus on the SDGs and the 2030 Agenda is a landmark achievement.[107] Implementation is the next step. Environmental law provides the essential means for doing so. The SDGs make clear the gravity of today's environmental and social problems. In the coming decade, as the UN Environment's GEO-5

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[102] Dire Tladi, Civil liability in the context of the Cartagena Protocol: to be or not to be (binding)? Int'l Environ Agreements (2010) 10:15–27, 20.

[103] *Joined cases concerning Certain Activities carried out by Nicaragua in the Border Area (Costa Rica v. Nicaragua) and Construction of a Road in Costa Rica along the San Juan River (Nicaragua v. Costa Rica)*, Judgment, 2015.

[104] Trail Smelter Case (United States, Canada).

[105] See International Council of Environmental Law, Vance Center and White and Case, Analysis of the Adoption and Implementation of the Environmental Principles in the Proposed Global Pact for the Environment (Global Pact) in the Sustainable Development Goals (SDGs), set forth in the Appendix to this Note.

[106] UN Secretary-General's Report on "Gaps in International Environmental Law and Environment-Related instruments: Towards a Global Pact for the Environment" (A/73/419, 30 November 2018), paragraph 20.

[107] M. Kamau, P. Chasek, D. O'Connor, Transforming Multilateral Diplomacy – The Inside Story of the Sustainable Development Goals (Routledge, 2018).

report records, States will be confronted with the reality that Earth's natural systems are at a categorical turning point. Agreement on the principles, such as the right to a healthy environment, and clarification of the other principles, can equip States to build resilience and capacity amidst present and future environmental adversity.

For example, the UN Secretary-General's report stresses the importance of effective implementation of the legal framework established by the UN Convention on the Law of the Sea (UNCLOS) and its implementing agreements in order to achieve Sustainable Development Goal 14, oceans, seas and marine resources.[108] However, general principles and MEAs are not yet linked to all SDGs. For example, the principles found in the Convention on Biodiversity or the Ramsar Convention on Wetlands, are not tied to the terrestrial goals expressed in SDG 15; and there is not an SDG for freshwater, which is central to both treaties. Whereas, governance, access to justice and information principles are central to all the SDGs, as set forth in SDG 16.[109] Clarification and reinforcement of principles will promote the links between international and national environmental law and sustainable development, facilitate SDG integration and gapfilling, and contribute to a transformative realization of sustainability goals.

Agreement on shared environment law principles would also help to clarify why capacity-building is urgently needed in many States. Thus, such agreement can contribute to a significant enhancement in development assistance and in international and national environmental governance[110] towards a coherent and effective protection system, aimed at the real achievement of a sustainable future.[111]

Since the adoption of the 2030 Agenda and the Sustainable Development Goals, the overarching aim of environmental law and policy implementation – of both national law and MEAs – is attaining the SDGs via the 2030 Agenda. To deliver on this overarching aim, the UNGA endorsed the Addis Ababa Action Agenda,[112] which is an integral part of the 2030 Agenda for Sustainable Development. Full implementation of the Addis Ababa Action Agenda is critical for the realization of the SDGs and targets, and for addressing the gaps noted in the Secretary-General's report.

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[108] UN Secretary-General's Report on "Gaps in International Environmental Law and Environment-Related instruments: Towards a Global Pact for the Environment" (A/73/419, 30 November 2018), paragraph 60 and 71.

[109] See Marcos Orellana, Governance and the Sustainable Development Goals: The Increasing Relevance of Access Rights in Principle 10 of the Rio Declaration, Review of European, Comparative and International Law, vol. 25, No.1 (2016).

[110] Professor Pilar Moraga, Universidad de Chile (Chile), indicates that: "In turn, the enshrinement of the principles of environmental law included in the Pact would make it possible to shed light on domestic rights, and consequently illuminate the work of national case law." See http://blogs.law.columbia.edu/climatechange/2018/09/20/global-perspectives-on-a-global-pactfor-the-environment/#Alex%20L.%20Wang (accessed November 2018).

[111] Professor Marisol Anglés, UNAM (Mexico) stresses the sustainability element of the Pact by indicating that "the content and scopes proposed in the Pact may be perfected to build a long-term vision of development for all nations, encompassing present and future generations." See http://blogs.law.columbia.edu/climatechange/2018/09/20/global-perspectives-on-a-global-pact-for-theenvironment/#Alex%20L.%20Wang (accessed November 2018).

[112] The Addis Ababa Action Agenda of the Third International Conference on Financing for Development (Addis Ababa Action Agenda), adopted by the General Assembly on 27 July 2015 (resolution 69/313, annex).

Also integral to the 2030 Agenda are the Istanbul Declaration and Programme of Action,[113] the SIDS Accelerated Modalities of Action (SAMOA) Pathway[114] and the Vienna Programme of Action for Landlocked Developing Countries for the Decade 2014–2024,[115] and the African Union's Agenda 2063 and the programme of the New Partnership for Africa's Development.[120] As agreed by the UNGA, the scale and ambition of the new Agenda requires a revitalized Global Partnership to ensure its implementation: "This Partnership will work in a spirit of global solidarity, in particular solidarity with the poorest and with people in vulnerable situations. It will facilitate an intensive global engagement in support of implementation of all the Goals and targets, bringing together Governments, the private sector, civil society, the United Nations system and other actors and mobilizing all available resources."[116]

Arguably, the greatest hindrance to implementing environmental laws, both national and MEAS, as well as the 2030 Agenda, is the lack of shared commitment by States to making the fulfillment of environmental law and the 2030 Agenda an over-arching priority. This has impeded sustainable development in the past and will also work to undermine the successful achievement of the SDGs. Providing a set of common governing principles has the capacity to broaden this focus into a widely shared perspective. The endorsement of a Global Pact will set the stage for making agreement on giving priority to the 2030 Agenda. Each of the Pact's principles can be aligned behind different SDGs and their agreed indicators.

Some urge a "no action" alternative, to let the existing systems go on "as is," but this is inconsistent with the 2030 Agenda and the SDGs. "No action" undermines the SDGs. Clarifying already applicable principles of law does not generate new commitments. It is a "least difficult" step in support of UNGA Res. 70/1. Further, observing the restated principles of environmental law is essentially the task of national governments. States themselves will individually decide how to observe them, as is the case with other general principles of law. Having an agreed set of principles will "level the playing field" and encourage cooperation among States, which are assured that all others have a similar outlook. It will enable sharing "best practices" and foster capacity building.

As UN Environment, the Organization of American States, and the IUCN World Commission on Environmental Law have explained, the "environmental rule of law" is a proven pathway for attaining the Sustainable Development Goals. In 2016, the World Commission on Environmental Law of the International Union for the Conservation of Nature (IUCN) and UN Environment[117] called the basic norms of procedural environmental rights part of the

[113] *Report of the Fourth United Nations Conference on the Least Developed Countries, Istanbul, Turkey, 9–13 May 2011* (A/CONF.219/7), chaps. I and II.

[114] Resolution 69/15, annex.

[115] Resolution 69/137, annex II. [120]

A/57/304, annex.

[116] Res. 70/1, Para. 29.

[117] https://www.un.org/ruleoflaw/thematic-areas/land-property-environment/environmental-law/

"Environmental Rule of Law."[118] UN Environment describes it, as follows: "Environmental rule of law is central to sustainable development. It integrates environmental needs with the essential elements of the rule of law, and provides the basis for improving environmental governance. It highlights environmental sustainability by connecting it with fundamental rights and obligations. It reflects universal moral values and ethical norms of behavior, and it provides a foundation for environmental rights and obligations. Without environmental rule of law and the enforcement of legal rights and obligations, environmental governance may be arbitrary, that is, discretionary, subjective, and unpredictable."[124]

Conclusions

As the UN Secretary-General stated in November 2018 at the Paris Peace Forum, anticipating the issuance of his Report: "codifying the fundamental principles of environmental law would provide predictability and clarity." We agree.

The Secretary-General's Report is a milestone in the progressive development of international environmental law. As practitioners, teachers, and scholars of this still young legal field, we urge everyone to study the Secretary-General's Report. We further commend to all, the authorities whom we have cited in this Note.

Implementing the SDGs is the best way forward to averting future environmental disasters. Codifying and progressively elaborating the international principles of environmental law will substantially improve the odds that the SDGs can be attained. Keeping this as the priority for the Nairobi consultations can build consensus. Once confidence is built, then the process can advance to capacity building. Recommending a set of common principles is the essential initial step.

It is possible to address the gaps in international environmental law, gaps in relationship to environment-related instruments, and gaps in financing. This will take more time. The five months provided for the consultations in Nairobi do provide adequate time to draft and agree upon a new Global Pact for the Environment. States already agree on many principles, as the **ICEL Charts** in the Appendix to this Note demonstrate. Recognition of our shared principles can then guide capacity building.

Resolution 72/277 has launched a remarkable quest to strengthen international environmental law. The promise of Agenda 21's recommendation on law and governance are at

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118 https://www.iucn.org/sites/dev/files/content/documents/english_world_declaration_on_the_environmental_rule_of_law_final.pdf

124 https://www.unenvironment.org/explore-topics/environmental-governance/what-we-do/strengthening-institutions/promoting-1

last recognized. The consultations in Nairobi can productively examine the "scope, parameters and feasibility of an international instrument" that both codifies and clarifies the various international principles and basic duties for safeguarding Earth's natural environment. We have modest confidence that the forthcoming consultations in Nairobi will afford States an opportunity to review how much agreement already exists within international environmental law. This recognition will facilitate cooperation toward a deeper consensus to agree on the principles that strengthen international environmental law and contribute to attaining the UN Sustainable Development Goals.

Signatories

(as of 10 December 2018)

The names of the environmental law experts originating this Note are listed in alphabetical order (institutions and countries provided for identification purposes only)

Experts' signatures received as of 9 January 2019 will be included in the release of this Note at the consultations of the General Assembly's ad hoc open working group in Nairobi. The Note will be available for signature at the web page of the World Commission on Environmental Law of the International Union for the Conservation of Nature (IUCN), at https://iucn.org/sites/dev/files/noteforunsgenvllawrptdec2018_final.pdr and the signature link is at https://goo.gl/forms/expWxdLTehd0TKYUZ2
See also generally www.iucn.org/commissions/wcel.

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Appendix

THE ICEL CHARTS

Below please find links to charts that set forth the correspondence between the Draft Global Pact for the Environment and the Sustainable Development Goals, general principles of international soft law, multilateral environmental agreements, and various regional environmental agreements. They have been prepared by the International Council of Environmental Law (ICEL)—an expert international organization established in 1969 and in consultative status with UN ECOSOC since 1973—together with the Vance Center for International Justice (sponsored by the New York City Bar Association) and White & Case, an International Law Firm.

ICEL has prepared the attached charts as a resource and reference for the UN Ad hoc Open-ended Working Group that will deliberate in 2019 about the state of international environmental law today, and how gaps or limitations retard measures to attain the SDGs.

The charts simply gather, conveniently in one place, most if not all of the principles that States have already accepted in their international agreements. They are publicly available, without charge, through the Law Library of the Elisabeth Haub School of Law at Pace University (New York), at https://libraryguides.law.pace.edu/icel.

States may refer to these agreements as they evaluate the Report of the UN SecretaryGeneral's technical and evidence-based report on how gaps in international environmental law with a view to strengthening implementation of this field, available at https://www.iucn.org/sites/dev/files/content/documents/global_pact_report.advance.30_november_2018.pdf.

LINKS TO THE ICEL CHARTS

Analysis of the Adoption and Implementation of the Environmental Principles in the Proposed Global Pact for the Environment (Global Pact) in the Sustainable Development Goals (SDGs)
https://libraryguides.law.pace.edu/ld.php?content_id=45886809
https://www.iucn.org/sites/dev/files/global_pact_review__sustainable_development_goals.pdf

Analysis of the Adoption and Implementation of the Environmental Principles in the Proposed Global Pact for the Environment (Global Pact) in soft law instruments
https://libraryguides.law.pace.edu/ld.php?content_id=45886737
https://www.iucn.org/sites/dev/files/global_pact_review_-_soft_law_instruments.pdf

Analysis of the Adoption and Implementation of the Environmental Principles in the Proposed Global Pact for the Environment (Global Pact) in multilateral environmental agreements (MEAs)
https://libraryguides.law.pace.edu/ld.php?content_id=45886731
https://www.iucn.org/sites/dev/files/global_pact_review_-_multilateral_environmental_agreements.pdf
Analysis of the Adoption and Implementation of the Environmental Principles in the Proposed Global Pact for the Environment (Global Pact) in Regional Instruments: African Union States
https://libraryguides.law.pace.edu/ld.php?content_id=45886314
https://www.iucn.org/sites/dev/files/global_pact_regional_review_-_african_union_states.pdf

Analysis of the Adoption and Implementation of the Environmental Principles in the Proposed Global Pact for the Environment (Global Pact) in Regional Instruments: Association of Southeast Asian Nations (ASEAN)
https://libraryguides.law.pace.edu/ld.php?content_id=45886672
https://www.iucn.org/sites/dev/files/global_pact_regional_review_-_asean.pdf

Analysis of the Adoption and Implementation of the Environmental Principles in the Proposed Global Pact for the Environment (Global Pact) in Regional Instruments: Caribbean Community (CARICOM) Environmental and Natural Resources Policy Framework (July 2017-June 2022)
https://www.iucn.org/sites/dev/files/global_pact_regional_review_-_caricom.pdf

Analysis of the Adoption and Implementation of the Environmental Principles in the Proposed Global Pact for the Environment (Global Pact) in Regional Instruments: China
https://libraryguides.law.pace.edu/ld.php?content_id=45886682
https://www.iucn.org/sites/dev/files/global_pact_regional_review_-_china.pdf

Analysis of the Adoption and Implementation of the Environmental Principles in the Proposed Global Pact for the Environment (Global Pact) in Regional Instruments: Commonwealth of Independent States (CIS) https://libraryguides.law.pace.edu/ld.php?content_id=45886689
https://www.iucn.org/sites/dev/files/global_pact_regional_review__commonwealth_of_independent_states.pdf

Analysis of the Adoption and Implementation of the Environmental Principles in the Proposed Global Pact for the Environment (Global Pact) in Regional Instruments: League of Arab States (Arab League)
https://libraryguides.law.pace.edu/ld.php?content_id=45886695
https://www.iucn.org/sites/dev/files/global_pact_regional_review_-_league_of_arab_states.pdf

Analysis of the Adoption and Implementation of the Environmental Principles in the Proposed Global Pact for the Environment (Global Pact) in Regional Instruments: Pacific Islands Forum
https://libraryguides.law.pace.edu/ld.php?content_id=45886718
https://www.iucn.org/sites/dev/files/global_pact_regional_review_-_pacific_islands_forum.pdf

Analysis of the Adoption and Implementation of the Environmental Principles in the Proposed Global Pact for the Environment (Global Pact) in Regional Instruments: South Asian Association for Regional Cooperation (SAARC)
https://libraryguides.law.pace.edu/ld.php?content_id=45886852
https://www.iucn.org/sites/dev/files/content/documents/2018/globalpactsaarcfeb2018.pdf

Analysis of the Adoption and Implementation of the Environmental Principles in the Proposed Global Pact for the Environment (Global Pact) in Regional Instruments: South Asian Association Cooperative Environment Program (SACEP)
https://libraryguides.law.pace.edu/ld.php?content_id=45887131