

22/17. Governance and law

I

Follow-up to General Assembly resolution 57/251 on the report of the seventh special session of the United Nations Environment Programme Governing Council/Global Ministerial Environment Forum

The Governing Council,

Recalling General Assembly resolution 2997 (XXVII) of 15 December 1972, the Nairobi Declaration on the Role and Mandate of the United Nations Environment Programme and the Malmö Ministerial Declaration.

Also recalling General Assembly resolutions 55/200 of 20 December 2000, 56/193 of 21 December 2001 and in particular 57/251 of 20 December 2002,

Recalling the Plan of implementation of the World Summit on Sustainable Development,¹ in particular chapter X on means of implementation, which emphasizes the need for enhancing the provisions on support to developing countries and countries with economies in transition for capacity-building as well as the provisions on technical and technological support,

Also recalling that several of the multilateral environmental agreements have specific articles on the need for transfer of technology and capacity-building, as well as a number of decisions that specify these obligations,

Taking note of the initial efforts made by the United Nations Environment Programme to initiate a process for the development of an intergovernmental strategic plan for technology support and capacity-building,

1. Notes the invitation of the General Assembly to Member States, the Governing Council of the United Nations Environment Programme and relevant bodies of the United Nations system to submit to the Secretariat their comments on the important but complex issue of establishing universal membership of the Governing Council/Global Ministerial Environment Forum, including its legal, political, institutional, financial and system-wide implications and requesting that the Secretary-General submit a report incorporating those views to the General Assembly, for consideration before its sixtieth session;

2. Requests the Executive Director, in the framework of the implementation of paragraph 4 of General Assembly resolution 57/251, to:

(a) Invite Governments to submit written comments on the subject by 31 October 2003;

(b) Submit a report incorporating those comments from Governments to the eighth special session of the Governing Council/Global Ministerial Environment Forum, in 2004, for its consideration;

3. Notes the launching of the pilot phase for a voluntary indicative scale of contributions aimed at enhancing predictability in financing the programme of work and broadening the base of contributions;

4. Notes that an increase in funding from the United Nations regular budget for the United Nations Office at Nairobi and/or the United Nations Environment Programme in the biennium 2004-2005 would decrease the requirement under the Environment Fund biennial support budget and the released resources would be reallocated for the programme activities and/or the Environment Fund financial reserve;

5. Welcomes the position of the United Nations General Assembly which, by its resolution 57/251, reiterated the need for stable, adequate and predictable financial resources for the United Nations Environment Programme, and in this regard and in accordance with General Assembly resolution 2997(XXVII) underlined the need to consider adequate reflection of all administrative and management costs of the United Nations Environment Programme in the context of the United Nations regular budget;

6. Requests the Executive Director, in collaboration with the United Nations Development Programme, the Global Environment Facility and other relevant organizations, in compliance with decision SS.VII/1, paragraphs 33 and 34, to develop an intergovernmental strategic plan for technology support and capacity-building and submit a draft strategic plan to the Governing Council/Global Ministerial Environment Forum at its eighth special session in 2004. The draft strategic plan should be based on input from States, both at the regional and the national level, to incorporate national and regional priorities;

7. Requests the Executive Director to report on progress in the implementation of the present decision to the Governing Council/Global Ministerial Environment Forum at its eighth special session.

II

Implementation of the Programme for the Development and Periodic Review of Environmental Law by the First Decade of the Twenty-first Century

A

Follow-up to the Global Judges Symposium focusing on

capacity-building in the area of environmental law

The Governing Council,

Recalling the Programme for the Development and Periodic Review of Environmental Law for the First Decade of the Twenty-first Centuryⁱ and its decision 21/23 of 9 February 2001, which called on the Executive Director to promote the effective implementation of, compliance with and enforcement of environmental law, and towards this end to strengthen the capacity of various stakeholders, including members of the judiciary,

Recalling the six regional judges' symposiums on environmental law convened by the United Nations Environment Programme in collaboration with several partner agencies in Africa, South Asia, South-east Asia, Latin America and the Caribbean and the Pacific Island States during the period 1996-2001, which laid a strong foundation for judicial capacity-building in the regions and which called on the United Nations Environment Programme to convene a global judges' symposium on the role of law and sustainable development,

Taking note of regional experiences of the United Nations Environment Programme in the development of environmental laws,

Noting with appreciation the convening of the Global Judges' Symposium on the Role of Law and Sustainable Development in Johannesburg, from 18 to 20 August 2002, with the participation of over 122 high-ranking judges from more than 60 countries around the world, and noting the adoption by them by acclamation of the Johannesburg Principles on the Role of Law and Sustainable Developmentⁱⁱ as a contribution from the Global Judges' Symposium to the World Summit on Sustainable Development, and the presentation of the Johannesburg Principles to the Secretary-General of the United Nations by the Chief Justice of South Africa,

Taking note of the report of the Executive Director on the Global Judges' Symposium on the Role of Law and Sustainable Development and its outcome (UNEP/GC.22/INF/24),

Recognizing the existing expertise of relevant organizations working at the international, regional, national and local levels in the field of environmental law,

1. Extends its deep appreciation to the Government of South Africa and the host of the Global Symposium, the Chief Justice of South Africa, for the excellent arrangements made for the successful conduct of the Symposium, and to the Executive Director for taking this important initiative;

2. Calls on the Executive Director to support, within the framework of the Programme for the Development and Periodic Review of Environmental Law for the First Decade of the Twenty-first Century and within available resources, the improvement of the capacity of those involved in the process of promoting,

implementing, developing and enforcing environmental law at the national and local levels such as judges, prosecutors legislators and other relevant stakeholder, to carry out their functions on a well informed basis with the necessary skills, information and material with a view to mobilizing the full potential of the judiciaries around the world for the implementation and enforcement of environmental law, and promoting access to justice for the settlement of environmental disputes, public participation in environmental decision-making, the protection and advancement of environmental rights and public access to relevant information;

3. Encourages Governments and international financial institutions to assist developing countries and countries with economies in transition by providing funding for capacity-building as described in operative paragraph 2 above;

4. Encourages the Executive Director to work in partnership with relevant organizations in the design and implementation of these capacity-building activities;

5. Requests the Executive Director to report to the Governing Council, at its twenty-third session, on progress in the implementation of the present decision.

B

Enhancing the application of principle 10 of the Rio Declaration on Environment and Development

The Governing Council,

Recalling principle 10 of the Rio Declaration on Environment and Development,ⁱⁱⁱ the Malmö Ministerial Declaration, and its decisions 20/4 of 4 February 1999, 20/6 of 5 February 1999 and 21/24 of 9 February 2001,

Recalling the report of the Executive Director prepared in pursuance of decision 20/4 on the law and practice relating to access to information on the environment, public participation in processes leading to decision-making and access to judicial and administrative procedures relating to environmental matters, and the report on international instruments reflecting principle 10 of the Rio Declaration on Environment and Development, prepared in pursuance of decision 21/24, as presented to the Governing Council/Global Ministerial Environment Forum at its seventh special session,

Taking note of the Plan of Implementation of the World Summit on Sustainable Development¹ in particular paragraphs 162 to 167,

Noting recent developments at national, regional and international levels in the application of principle 10 of the Rio Declaration on Environment and Development,

1. Notes, with appreciation, the action taken by the Executive Director to provide policy and advisory services in key areas of institution-building in support of developing countries and countries with economies in transition;

2. Requests the Executive Director to intensify efforts in the provision of policy and advisory services in key areas of capacity and institution-building, including access to information regarding legislation, regulations, activities, policies and programmes, and public participation in sustainable development policy formulation and implementation, including the promotion of public participation at the local and national levels in policy and programme development and implementation and in support of efforts by Governments, in response to requests, in cooperation with other organizations active in this field for assistance in the application of principle 10 of the Rio Declaration on Environment and Development at the local and national levels;

3. Requests the Executive Director to assess the possibility of promoting, at the national and international levels, the application of principle 10 of the Rio Declaration on Environment and Development and determine, inter alia, if there is value in initiating an intergovernmental process for the preparation of global guidelines on the application of principle 10;

4. Invites Governments and relevant intergovernmental and civil society organizations to participate actively in the above process, and invites those who are in a position to do so to provide financial or other contributions in support of the process;

5. Requests the Executive Director to submit a report to the Governing Council at its twenty-third session on the progress made in the preparation of the guidelines.

C

Status of international conventions and protocols in the field of the environment

The Governing Council,

Having considered the report of the Executive Director on the status of international conventions and protocols in the field of the environment (UNEP/GC.22/3/Add.2) and the note of the Executive Director on changes to the status of ratification of and/or accession to conventions and protocols in the field of the environment (UNEP/GC.22/INF/12),

Recalling its decision 24 (III) of 30 April 1975 and General Assembly resolution 3436 (XXX) of 9 December 1975,

1. Invites States that have not yet done so to consider signing, ratifying or acceding to conventions and protocols in the field of the environment expeditiously and to proceed with their implementation;

2. Calls on States and organizations that are in a position to do so to provide the secretariat of the United Nations Environment Programme with information on new conventions and protocols in the field of the environment as well as information on any changes to the status of the existing conventions and protocols in the field of the environment;

3. Authorizes the Executive Director to transmit chapter VI of the report of the Executive Director and the note of the Executive Director, on its behalf, together with comments made by delegations thereon, especially on the need for institutional capacity-building, to the General Assembly at its fifty-eighth session, in accordance with resolution 3436 (XXX).

D

Implementation of the Montevideo Programme III

The Governing Council,

Requests the Executive Director to provide to the Governing Council at its twenty-third session a comprehensive report on the implementation of the Programme for the Development and Periodic Review of Environmental Law for the First Decade of the Twenty-first Century, (Montevideo Programme III).ⁱ

10th and 12th meetings

7 February 2003

i See UNEP/ENV.Law/4/3.

ii UNEP/GC.22/INF/24, annex.

iii Principle 10 of the Declaration reads as follows: " Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided."