**Notes on First Substantive Session on the Global Pact for the Environment**

**14-18 January 2019**

These are brief summary notes for civil society contacts.

**Next Meeting**

It was agreed that the next substantive meeting on the Global Pact will take place from 18-**20 March 2019** (back to back with UNEA 4).

The **agenda** for this will include:

\*Opening

\*Agenda adoption

\*Financing of the activities of the ad hoc open-ended working group

\*Consideration of possible options to address possible gaps in international environmental law and environment related instruments, as appropriate

\*Provisional agenda and dates for third substantive session

\*Other matters

\*Close

**Importance of Attending Next Meeting**

There were many negative reactions to the idea of a Global Pact for the Environment, and much uncertainties from delegations about the need for any action to deal with gaps. There were strong concerns from some NGOs and some delegations that this process could collapse if it was not championed. Many delegations felt that it was important for NGOs to advocate strongly to keep the process, and the Global Pact, afloat.

The second substantive session will be considering options for filling gaps. It was recognised that such gaps could cover a number of areas – ranging from the Global Pact, principles, a human right to a clean and healthy environment, protection of environmental defenders, improved governance, harmonisation measures, monitoring and implementation, economic/financial measures etc.

This could, therefore, provide civil society with an excellent opportunity to promote a range of improvements to strengthen international environmental measures.

**Civil Society Participation and Funding**

64 NGOs were approved to attend the meeting, but only about 20 actually attended. Some of these did not attend NGO coordination meetings.

There was no NGO coordination before the first substantive session. During the meeting, there was a NGO coordination meeting each morning for an hour before the plenary. Three NGO coordinators were appointed: Ana Barreira, IIDMA; Paulo Magalhães, Common Home of Humanity; Janice Cox, World Animal Net.

The Co-Chairs did allow NGOs to speak, after delegates. They did not refuse any requests to make a statement. This included both statements from NGOs and from individual organisations. However, when the GAP report was being considered, the agenda was fast-moving, and there was only one opportunity to speak briefly at the end of the day, so it was not practically possible to cover every section of the report.

Many key NGOs and experienced coordinators were not able to attend this meeting. NGOs lobbied for an allocation of funding for civil society participation, and particularly the funding of coordinators for their work and travel, and included this aspect in a statement.

UNE Civil Society Unit could not gain access to any of the allocated funding largely because the wording of the two trust funds was restricted to member states’ delegations. Another complication was that only some of the NGOs attending were UNE accredited. However, the EU, who provided the funding, was very sympathetic and made a commitment to speak to UNE about the allocation of this funding.

One potential complication is that a number of Major Groups have different coordinators for New York and UN Environment - with UN environment coordinators being the most experienced in matters environmental, whereas the Global Pact process is New York driven.

This will need to be sorted out by Major Groups, with decisions taken on who is best equipped to attend and coordinate Global Pact meetings.

Some NGOs were not able to attend this meeting because they do not fall under the permitted categories of ECOSOC accredited organisations and those who were accredited to stated conferences and summits. These categories did not include NGOs accredited to UN Environment. NGOs may wish to lobby for the inclusion of UN accredited NGOs as this process develops, to ensure full participation and inclusiveness.

**UNEA 4 Flights**

The Kenyan government will offer special flights with Kenyan Airways, and low-priced fares, for UNEA 4. It was not clear whether this was just for delegates.

**Overview of Meeting**

The Co-Chairs presented an excellent oral summary of the meeting at the end of the final session. This will be available very shortly, so the content will not be repeated here.

In her opening speech, the Acting Executive Director of UN Environment, Joyce Msuya, spoke about the scale of the environmental problems we are facing. For example, almost 70% of wildlife has been wiped out since 1970.

The main body of the meeting followed the format of reiteration of general positions, followed by lengthy positions on the GAP report. There was a lot of repetition and obfuscation, so it was often very difficult to discover what actually lay beyond the many negative positions.

Some NGOs also had a watching brief, and were unable to commit to joint statements. This meant that statements were presented on behalf of “several NGOs”.

The process was also unclear. Some NGOs and delegations commented that the approach of considering the lengthy GAP report in some detail was a bit like “going down a rabbit hole” i.e. this drew the meeting into detailed sectoral considerations which led to many member states to express concern about the possibility of opening up existing conventions/treaties which have been carefully negotiated. They stressed that gaps may reflect hard-won compromises. Also, there were concerns about weakening existing conventions/treaties through the renegotiation process.

Some member states felt that more arguments are needed on how a Global Pact could be beneficial.

With respect to the GAP report. Some member states felt that the report could have provided a greater coverage of certain elements. Some thought that there could have been more justification of its recommendations. Some felt that some areas went beyond its mandate. However, there was general agreement that should not be subject to negotiation. Whilst it was not perfect, it should be the basis of discussion. Also, debate did not have to be limited to the substance of the report.

Some member states were talking about downgrading the Global Pact to a declaration.

Others were suggesting focussing on one or two critical paths, such as the right to a clean, safe, healthy (and sustainable) environment, and delineation of environmental principles.

Some member states mentioned that the International Law Commission already had a mandate for codifying general principles of law. However, others pointed out that this is a very slow process, and the environment needed both relevant expertise and urgency.

There seemed to be more support from delegates for the importance of general principles as building block for international environmental law. Such an exercise would be the opportunity to update existing principles and include new principles. However, it was stressed that care should be taken not open existing principles in a way that could lead to regression.

The importance of some of the principles in the GAP report was recognised. For example:

Prevention

Precaution

Polluter pays

Common but differentiated responsibilities and respective capabilities

Non-regression and progression

The right to a clean and healthy environment was stressed, as it was recognised that many human rights cannot be achieved without a clean and healthy environment.

Other principles were also suggested including earth systems, planetary boundaries, Mother Earth, harmony with nature, recognition of the intrinsic value of nature and the need for a duty to care for the environment.

It was stated that the process was not meant to be sectoral. Thus, it may be too late for NGOs to bring in specific issues now. This train may have passed the station? However, it is noted that some delegations wanted to continue discussing the GAP report at the next session, so this may mean the reopening of some sectoral considerations.

**Political Considerations**

US, Argentina, Brazil, China and Russia were against.

Canada, Australia, New Zealand, Switzerland and Sierra Leone felt that more arguments were needed on how a Global Pact could be beneficial.

Even some philosophically aligned countries were dubious. For example, Bolivia stated that they were developing strong policies and actions to protect Mother Earth, but were concerned about the extra layer of obligations that this work could bring.

A number of developing countries were also concerned about the potential obligations and burden of compliance, given their development priorities. There was a feeling amongst some that they are not the problem – industrialised countries had caused this problem, and it was inequitable to expect them to take stringent action to deal with this.

Another underlying concern was the potential impact on trade.

Micronesia was a solid supporter, and spoke often and convincingly. The Micronesian delegate spoke of the need to ensure the participation of other small island states, as these would be strong supporters (as their very existence is threatened). They will coordinate with other Pacific islands before the next meeting, and maybe with others outside the area. The delegate thought the reasons why many had not attended this meeting was because they have very small delegations, and were waiting to assess the value of participating.

St Lucia was very strong. The delegate was also very supportive of the role of NGOs.

Several other delegates spoke about the importance of involving NGOs, including the EU.

One problem was that the EU speaks on its common positions, and individual EU member states did not make separate statements. This considerably weakens voices of support for the Global Pact and other advances. Other groupings made statements about common positions, but individual members also spoke on their own account (and not always in line with their group’s common position!).

The NGO delegation had meetings with EU and GULAC members, which are recorded below.

The G77 grouping stopped coordination and making common statements, as there was too much divergence in views. However, there was talk of ASEAN trying to coordinate views before the next meeting.

**Daily Coverage**

There are links [here](https://globalpact.informea.org/news) to daily coverage, in the form of brief reports, by IISD.

**Statements by NGOs**

Statements are being provided [here](https://www.unenvironment.org/events/conference/towards-global-pact-environment), including NGOs statements.

**Other Meetings in Margins**

***Co-Chairs***

The Co-Chairs are working to follow the General Assembly resolution mandate i.e. taking the three stages of:

* Considering gaps;
* Considering options for possible gaps; and
* Providing recommendations for the General Assembly.

This meant that they viewed this first substantive session as the opportunity for delegates to have an exhaustive consideration of the gap report. [And it was exhausting!]

They said that it was not their mandate to prepare a legal instrument. Although this is a possibility, along with various other options.

They wanted a roadmap, on the basis that “if you don’t know where you are going, you will lose your way”. But were told no – the member states just wanted the agenda for the first meeting.

The second session would be important, as it was covering options, so would be more forward looking, and should bring a clearer idea of where the process was going.

The process needs more advocacy. It would be awful is this opportunity was missed, as it can only be a step forward.

The Co-Chairs noted that the small island states were particularly supportive of the need for a Global Pact.

***European Union***

The EU stressed its support for the participation of civil society and Major Groups.

Towards the close of the meeting, they agreed to consult stakeholders as they build their position – possibly in a web-based forum. There will also be an opportunity for participation in consultations with individual member states.

The EU felt that there was convergence that there are gaps.

They were probably speaking of EU convergence here, because a more general convergence was not reflected in the meeting positions.

The French were lobbying with other delegations but not speaking in the meeting (due to common positions being taken by the EU).

The EU has “observer plus” status, and the authority to speak on behalf of member states. However, as EU member states do not speak on their own behalf, this significantly dilutes the feeling of support in the meeting.

The EU felt that the next meeting would begin to focus towards action, with the exploration of options. They will ask for a non-paper to guide discussion in the second substantive meeting.

They felt that the elaboration of environmental principles had potential.

Three business representatives were present. The International Chamber of Commerce (ICC) was supportive of a Global Pact, and looked forward to the EU championing this. This could assist the international business operating environment, with harmonisation of standards.

The EU would like to consider various options. The jury was out about whether a unifying instrument was the right solution.

***GULAC***

GULAC members also spoke of the importance of involving and meeting civil society/NGOs.

However, the Venezuelan representative did add that he enjoyed meeting NGOs to find out “how the other side thought”!

The NGOs approached this meeting by talking about the similarities between NGOs’ views of earth systems and the use of planetary boundaries, and some GULAC members’ philosophy of Mother Earth.

Bolivia pointed out that there were diverse positions amongst GULAC members, and uncertainties about the way ahead. Argentina and Venezuela appeared the most negative (Brazil was not present).

Bolivia does not just accept Mother Earth as a philosophical belief, but also as an operational concept. They see the Mother Earth concept as collective rights. They were waiting for something ambitious which would not impose pressures or risks on existing regimes.

Ecuador has been working on the Rights of Nature. They are pursuing “eco living development”. They also mentioned cycles of Mother Earth and Harmony with Nature. But even they mentioned concerns about any new obligations. They would rather improve what they have with traditional knowledge.

Venezuela questioned whether there were gaps, and raised the point that some delegations had been wondering about a possible “compact”, rather than a legally binding measure.

Argentina pointed out that Mother Earth was one of a number of approaches. Harmony with Nature may be more likely to unify.

Venezuela and Argentina both spoke about working on the sustainable development agenda. Argentina mentioned that each state is free to adopt their own approach to sustainable development. They felt that it was dangerous to recognise that there were gaps in environmental law, because this could lead to an attempt to fill all gaps internationally. However, they did mention gaps in implementation, technology transfer, capacity building and financing.

A common concern was that of wanting to avoid the undermining or unravelling of any existing measures. They also wanted to avoid reopening any negotiations, as existing decisions/measures had been carefully crafted through lengthy processes.

**Opportunities for Input**

There will be an opportunity for written inputs before the next meeting. These will include civil society contributions. To be constructive and influential, these should focus on options for addressing possible gaps, as the main subject for the next meeting.

They should be sent to: [environment-law-director@un.org](mailto:environment-law-director@un.org)

With a copy to Laetitia Zobel of UN Environment’s Civil Society Unit. Email: [laetitia.zobel@un.org](mailto:laetitia.zobel@un.org)

The deadline will be 20th February.

**Summary of Action Needed Before Next Meeting**

The NGO coordination meeting identified the following actions needed before the second substantive meeting in March:

* Paulo Magalhães (Common Home of Humanity) will coordinate a leaflet on why a convention is needed on earth systems.
* Alessandra Lehmen will coordinate a paper to provide legal responses to the objections raised by delegates (in Q&A style).
* NGOs to prepare their thoughts on options to fill gaps by 20th February. Given the time restraint this could be done per organisation, but exchanging information and ideas where possible? It was recommended that these highlighted the need for a Global Pact and the need for an Earth System approach.
* UNEA 4 would provide a good opportunity for capacity building on the Global Pact. Laetitia Zobel has written to ask about the possibility of a side event or briefing on this in the Green Tent.
* Advocacy: Before the next meeting there should be lobbying of groupings (including ASEAN, which will also be trying to agree a common position) and individual countries. The aim should be to secure “buy-in” for the process; support for the Global Pact – in the form of an organizing and connecting binding international instrument; and acceptance of the need to develop a system which recognises the unity, interconnectivity and interdependence of the Earth’s ecosystem, and uses the planetary boundaries framework to monitor and drive international environmental governance. NB. [NGO statements](https://www.unenvironment.org/events/conference/towards-global-pact-environment) can help with the thrust of lobbying. When ready, the Q&A on responses to delegates objections will be invaluable.

**Janice Cox**

**World Animal Net**

**January 2019**