

Response to the call for comment on the annotated outline for the development of a partnership and stakeholder engagement strategy under the Montevideo Environmental Law Programme V

I. Introduction to the Global Pact Coalition

The Global Pact Coalition (GPC) welcomes and thanks the Secretariat of the Montevideo Programme for the annotated outline for the development of a partnership and stakeholder engagement strategy under the Montevideo Environmental Law Programme V. The GPC applauds this initiative which gives recognition to members of civil society and showcases the central role they play in the development and promotion of environmental rule of law. The GPC believes that working together with non-governmental organizations (NGOs) and other actors of civil society is crucial to support the successful implementation of the Programme.

The Global Pact for the Environment, a proposed international treaty drafted by a global expert panel of 100 lawyers, aims to enshrine environmental rights in international law. Alongside the Pact, an international coalition was created to promote the treaty among civil society. The GPC brings together more than 100 NGOs, some 200 academics, numerous businesses, and citizens from over 70 countries to foster a global movement for environmental rights.

The GPC is honored to present its commentary on the annotated outline for the Secretariat of the Montevideo Programme's consideration and hopes that its contribution may serve to substantiate the present partnership and stakeholder engagement strategy.

II. Commentary on the annotated outline

1. Section A. Background

a) Section A.c. Guiding principles

The GPC believes that this section should make reference to the **principle of promoting environmental research and innovation** which goes hand in hand with the principle of education and training, as well as the right of access to information. By encouraging stakeholders and partners to promote research in the field of environmental law, the principle contributes to the construction of an ecologically responsible society.

Furthermore, the GPC also suggests mentioning in this section the **principle of cooperation**. The Rio Declaration mentions the need to cooperate in its Principle 7 which states that

"States shall co-operate in a spirit of global partnership to conserve, protect and restore the health and integrity of the Earth's ecosystem". While this principle refers expressly to States, it can also be applied to non-State stakeholders and partners. Non-state entities such as NGOs, economic stakeholders, and local communities should also cooperate and work together to contribute to the global partnership.

b) Section A.d. Monitoring, evaluation, and reporting

In this section, the GPC suggests calling for the establishment of a mechanism responsible for the monitoring, evaluation, and reporting of the progress made toward achieving the goals of this strategy. Monitoring the programme's progress and effectiveness is essential to ensure its successful implementation and to make informed decisions for continuous improvement.

The engagement of relevant non-state stakeholders and partners is vital in such a monitoring process. As such, the GPC suggests the establishment of a comprehensive monitoring framework that outlines the responsibilities of different stakeholders and partners, data collection methods (to identify trends, strengths, and weaknesses that require attention), and reporting procedures. Relevant data collected should be used to suggest adjustments and improvements to the Montevideo Environmental Law Programme V based on the insights gained from the monitoring process. This would ensure that the Montevideo Environmental Law Programme V remains responsive to changing environmental challenges.

2. Section B. Stakeholder engagement for the development and progressive review of environmental law

Non-State stakeholders have an essential role to play in the implementation of the Montevideo Environmental Law Programme and, more generally, of international environmental law and principles. It is therefore important to expressly recognize the role and duties of NGOs, economic stakeholders, and local communities in the promotion and development of environmental rule of law.

a) Paragraph B.f. Definition of stakeholders

To maintain its inclusiveness and to cover the broadest possible range of situations and actions in order to promote environmental law and its implementation, **the definition of stakeholders should not limit itself to a restricted category of stakeholders**. The definition should refer to a non-exhaustive list of civil society, economic stakeholders, cities, and regions. In order to ensure a broad definition of stakeholders, the GPC recommends using the term "including" before listing examples of potential stakeholders.

b) Paragraph B.g. Roles and responsibilities of stakeholders in the implementation of the Programme

i. The roles of stakeholders

The GPC suggests that this section start by recognising the "vital role" of these stakeholders and commend them. From a practical perspective, the non-State stakeholders are essential in the protection of the environment and their participation in the implementation process of the Montevideo Environmental Law Programme V should be encouraged and promoted.

The GPC suggests that the Secretariat recognizes the essential role of non-State stakeholders as creative forces regarding the development of environmental norms. Accordingly, the GPC recommends that the Montevideo Environmental Law Programme V give non-State stakeholders a right of initiative and proposal in the process of drafting environmental norms.

At the United Nations (UN) level, non-State stakeholders, and more particularly NGOs, have been recognized for their numerous contributions to the international legal framework. It is common for non-State stakeholders to cover the "first few miles", then pass the baton to States to finalize a draft text. In fact, non-State stakeholders are often the originators of proposals.

For example, the resolution of the UN General Assembly that recognizes the right to a healthy environment as a human right, adopted on 28 July 2022, was largely the work of members of civil society, in addition to the core group on human rights and the environment (Costa Rica, the Maldives, Morocco, Slovenia, and Switzerland). In fact, on 18 July 2023, the UN General Assembly awarded the "Global Coalition of Civil Society, Indigenous Peoples, Social Movements, and Local Communities for the Universal Recognition of the Right to a Clean, Healthy, and Sustainable Environment" the 2023 human rights award. The award recognized this Coalition for its critical role in advocating for the recognition of the right to a healthy environment by the UN General Assembly in 2022.

Therefore, **giving non-State stakeholders a right of initiative and proposal would only shed light on the traditional and fundamental role they have always played in the development of new legal norms.**

ii. The responsibilities of stakeholders

When discussing their responsibilities, the GPC suggests pointing out that some stakeholders have developed exponentially to the point where **some economic operators are now almost as powerful as States, meaning they should bear the consequences.** Furthermore, it should also be highlighted that **some of these operators have considerable resources that could prove valuable** in the fight against environmental deterioration.

Regarding more specific types of responsibilities and duties, the GPC suggests taking inspiration from the OECD's guiding principles for multinational corporations which state that, amongst other environmental duties, multinational corporations are to "take due account of the need to protect the environment, public health and safety, and generally to conduct

their activities in a manner contributing to the wider goal of sustainable development". The strategy could replace the goal of "sustainable development" with that of "the promotion and development of environmental rule of law", for example.

Furthermore, Principle 27 of the Johannesburg Declaration can also be used as inspiration to determine the duties of stakeholders as it states that "in pursuit of its legitimate activities the private sector, including both large and small companies, has a duty to contribute to the evolution of equitable and sustainable communities and societies".

3. Section C. Partnerships for the development and progressive review of environmental law

a) Section C.i. Considerations to be taken into account in establishing environmental law partnerships

Partnerships are indispensable for the successful promotion and implementation of the environmental rule of law.

The need for cooperation constitutes a basis for global environmental governance. It is an obvious requirement when environmental problems are not contained within State borders. As stated earlier, the **principle of cooperation can also be applied to non-State entities** meaning that NGOs, economic stakeholders, local communities, and other entities should partner up and cooperate to contribute to the global partnership.

Civil society makes reference to the principle of cooperation in relation to non-state entities in Article 20 of the draft CIDCE International Covenant on the Human Right to the Environment, according to which "[a]ll States, international organizations, and all peoples shall cooperate in a spirit of global partnership to oversee, assess, conserve, protect and restore the health and integrity of the Earth's land and marine ecosystems [...]". One can also cite the preamble of the Convention on Biological Diversity which insists on international, regional and worldwide cooperation "among States and intergovernmental organizations and the non-governmental sector for the conservation of biological diversity and the sustainable use of its components".

III. Conclusion

Regardless of the above suggestions, the GPC commends the Secretariat of the Montevideo Programme for its efforts to develop a partnership and stakeholder engagement strategy.

The GPC is committed to supporting the work of the Secretariat and will gladly welcome any opportunity for continued dialogue.