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## UN Environment Management Group Nexus Dialogues

*Human Rights and the Environment: A 3-Part Series of Nexus Dialogues*

**The Right to a Healthy Environment (24 Jul 2020)**

**Examining the Elements of the Right to a Healthy Environment (22 Sep 2020)**

**Supporting Rights-Based Environmental Action: A Workshop (23 Sep 2020)**

Virtual Series

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### Outcome Document

Environmental degradation, including climate change and biodiversity loss, is a threat to all human rights (e.g. food, water and sanitation, housing, health, development, decent work, life, etc.). Persons, groups and peoples already in vulnerable situations are amongst the most exposed to the impacts of environmental degradation with the least resources to withstand them. A human rights-based approach leads to more sustainable environmental action to mitigate and adapt to biodiversity loss and climate change. Human rights language in the Paris Agreement and the increasing attention by the Human Rights Council on climate change and the environment, including the rights of environmental human rights defenders, have increased demand by member states to address the human rights impact of environmental harm.

COVID-19 has resulted in the postponement of many intergovernmental negotiations related to protection of the environment, while simultaneously illustrating the sharp linkages between people and their environment. 2020 has been called the “[super-year for nature and biodiversity](#),” with important negotiations on [biodiversity](#), [climate change](#) and chemicals management planned. Rather than lose the super-year momentum, the Secretary-General has called for the international development community to take the actions needed to reduce the risk of future pandemics and environmental harm by building back better from the crisis.

Against this background, the UN Environment Management Group, in close collaboration with the Office of the UN High Commissioner for Human Rights, organized a series of three virtual Nexus Dialogues. The Dialogues intended to mobilize the UN system behind rights-based environmental action, and to consider protection gaps and opportunities to strengthen the human right to a healthy environment, increase climate ambition, and integrate rights into the post-2020 Global Biodiversity Framework.

The Dialogues also aligned with the Secretary-General’s Call to Action on Human Rights and the UN Environment Programme’s COVID-19 response which emphasizes modernizing environmental governance and multilateralism with a move towards virtual e-platforms, while simultaneously lowering the overall environmental footprint.



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**Key messages noted during the Nexus Dialogues, include:**

## **The Right to a Healthy Environment**

(24 Jul 2020)

The Special Rapporteur on Human Rights and Environment, the Permanent Representative of Slovenia to UNOG, and representatives from the United Nations Children's Fund (UNICEF) and the UN Environment Programme (UNEP) spoke about institutional and systemic challenges, including:

- **The public's lack of trust in the scientific community** (e.g. Intergovernmental Panel on Climate Change, Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services, etc.) **and a climate of contradicting information and ignorance about populations in vulnerable situations** (e.g. children, indigenous peoples, etc.) **and how environmental harms** pose a challenge to efforts to promote universal recognition of and effective implementation of the *Right to a Healthy Environment*.<sup>1</sup> Currently, 80% of States recognize this right which has both procedural and substantive elements. These include access to information, public participation, and access to justice and effective remedies, as well as substantive elements including clean air, a safe climate, access to safe water and adequate sanitation, healthy and sustainably produced food, non-toxic environments in which to live, work, study and play, and healthy biodiversity and ecosystems.<sup>2</sup>
- **Due to COVID-19 slowing international and national processes, important consultations on a potential resolution on the human right to a healthy environment have been delayed**, creating difficulties in establishing consensus for its global recognition.

Specific protection gaps which directly influence the effective implementation of the *Right to a Healthy Environment* were identified, as well as opportunities going forward:

- **There are capacity gaps at the international, regional, national, and local levels** which hinder the recognition of the *Right to a Healthy Environment*. These include: weak institutions, ineffective rule of law, corruption, and a lack of implementation. The UN has an important role in delivering valid, consistent, and substantive guidance.
- **At this time, there is no universal definition for the *Right to a Healthy Environment*, or harmonized approach** (e.g. articulating a binding legal obligation to protect the *Right to a Healthy Environment*). However, with 156 member states recognizing the right in some form – there is greater potential for widespread international commitment and universal recognition.

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<sup>1</sup> "A safe, clean, healthy and sustainable environment is necessary for the full enjoyment of a vast range of human rights, including the rights to life, health, food, water and development. At the same time, the exercise of human rights, including the rights to information, participation and remedy, is vital to the protection of the environment". See UN Doc. A/73/188

<sup>2</sup> See UN Doc. A/HRC/43/53



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- **Support for universal recognition of the human right to a healthy environment is widespread in civil society.** Many young people in particular, view this as critical to the achievement of intergenerational equity and sustainable development. Good practices are paving the way for recognition and implementation of this right, including, for instance, laws to ban unnecessary use of single-use plastics adopted by more than 50 countries.

Despite challenges and capacity gaps, continued work on the *Right to a Healthy Environment* is resulting in solutions and initiatives that advance rights-based environmental action. In fact, it has been noted that experience with and evidence related to the implementation of the right to a healthy environment at the national level demonstrate that “a rights-based approach clarifies the obligations of States and businesses; catalyses ambitious action; highlights the plight of the poorest and most vulnerable; and empowers people to become involved in designing and implementing solutions”;<sup>3</sup> ensuring better outcomes for people and the planet. A number of initiatives were highlighted by the discussion:

- **Through inclusive and parallel processes, the Republic of Slovenia is working with Morocco, Switzerland, Costa Rica, and the Maldives** to consult whether a global recognition of the *Right to a Healthy Environment* via a gradual process could take place in a consensual manner: firstly, through a resolution by the Human Rights Council and then by the UN General Assembly.
- **UNEP** is increasing awareness of the potential of the Universal Periodic Review (UPR) of the Human Rights Council to advance rights-based environmental action. The UPR periodically assesses the human rights records of all 193 member states through a peer review process. UNEP has been conducting research on to what extent the *Right to a Healthy Environment* has been integrated into the UPR process (cycle 3, sessions 27-35).
- As a core partner in the Children’s Environmental Rights Initiative and joint custodian of the Intergovernmental Declaration on Children, Youth, and Climate Action, **UNICEF** has assisted in incorporating climate resilience in their programmes in order to provide youth with information on how to engage in climate action, including in participating in COPs and intergovernmental negotiations. It was also noted that a resolution on children’s rights and the environment (in relation to the annual day on the rights of the child which this year focused on children’s rights and the environment) would be tabled at the upcoming 45<sup>th</sup> session of the Human Rights Council, with Uruguay and the EU comprising the core group facilitating the resolution.
- **The Special Rapporteur on Human Rights and the Environment** will present his report “Human Rights Depend on a Healthy Biosphere” to the UN General Assembly in October 2020. The Rapporteur is also consulting with a wide coalition of civil society organizations, poised to launch a global call for the UN recognition of the *Right to a Healthy Environment*. Earlier in 2020, the Special Rapporteur presented a report compiling good practices on the right to a safe, clean, healthy and sustainable environment, including regarding legal recognition, procedural elements and substantive elements.

The following recommendations are suggested as actionable next steps and recommendations for the international community:

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<sup>3</sup> UN Doc. A/74/161



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- Participants in the dialogue agreed that **global recognition of the human *Right to a Healthy Environment* would advance efforts to protect both people and the planet**, and the time for such recognition is now.
- By issuing valid, consistent and substantive guidance to member states, barriers to the recognition of the *Right to a Healthy Environment* could be lowered. Such guidance could comprise suggestions on definitions and good practices which also engage multiple stakeholders such as civil society, National Human Rights Institutions, academia and private sector actors.
- **On the national level, there is a need for a broad coalition to support the efforts towards realizing the *Right to a Healthy Environment*.** For example, strengthen environmental laws and policies, improve implementation and enforcement, increase education, facilitate public participation, and ensure accountability on this issue. The protection of human rights defenders, including environmental human rights defenders, and ensuring accountability and access to justice was also highlighted.
- In addition to supporting law and governance, UN agencies are encouraged to act on the Secretary-General's Call to Action, and **promote low-carbon approaches in their programmes as well as to meaningfully engage all stakeholders, including children and young persons**, in decision-making. The UN Sustainability Strategy 2020-2030 provides an opportunity to ensure rights-based sustainable development.
- To monitor UN guidance and ensuing national legislation, **the UN system and member states are encouraged to promote the UPR as a reliable and valid follow-up and review mechanism for environmental commitments.** Since its inception, the UPR has issued many recommendations about environmental issues, yet they are not widely known or integrated into policy.
- 2030 is a critical target for the **Sustainable Development Goals and the 2030 Agenda.** Barriers to the effective realization of sustainable development for all, including weak rule of law, lack of capacity and effective institutions need to be overcome to realize the right to a healthy environment.
- **Good practices can help to demonstrate the positive impacts** of effectively implementing and realizing the right to a healthy environment.
- The establishment of an **EMG Issue Management Group (IMG) on human rights and the environment** was highlighted as a pathway to increase UN system capacity to support member states in advancing and implementing the human right to a healthy environment, including the protection of environmental defenders, promoting environmental education, and expanding civic space.

To keep momentum on the super-year for nature and efforts to realize the *Right to a Healthy Environment for all*, **several recommendations were made, including dissemination of information and integration of information into policy to enhance accountability across stakeholders.** Ensuring awareness-raising, greater integration into programmes, and regional/national/local development plans and accountability were highlighted as multiple pathways in pursuit of the same objective: *The Right to a Healthy Environment*.

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## Examining the Elements of the Right to a Healthy Environment

(22 Sep 2020)

The Special Rapporteur on hazardous substances and wastes, and representatives from Interamerican Association for Environmental Defense (AIDA), the Secretariat of the Convention on Biological Diversity (CBD), and the Center for International Environmental Law (CIEL) spoke about substantive elements of the human right to a healthy environment including the rights to participation, access to information and access to justice, a non-toxic environment, protection of nature in all its diversity and a safe and stable climate.

They highlighted several rights that were frequently affected by environmental harms including:

- **Right to life and health**, including the determinants of good health.
- **Right to an adequate standard of living**
- **Right to non-discrimination**, including the enjoyment of rights by the most vulnerable
- **Right to participation in cultural life**, including as it related to land, resources, territories and traditional knowledge

**Human rights and environmental protection are inextricably linked, however, there have been a number of challenges in ensuring policy coherence and fully integrating human rights into all forms of environmental action including with respect to toxics, biodiversity loss and climate change.**

- The **broad range of negative human rights impacts that different communities are experiencing** as a result of environmental degradation including climate change and biodiversity loss, can hinder unity around shared experiences and shared goals.
- To promote the accountability of- and the environmental, human rights-related, and social costs of environmental degradation, there are increasing calls for businesses to perform mandatory due diligence related to their impacts on environment including climate, and human rights, as called for by the United Nations Guiding Principles on Business and Human Rights (UNGPs). **However, in the almost 10 years since the adoption of the UNGPs, progress on this front has been limited.**
- **Disinformation campaigns that fuel skepticism regarding scientific findings have had dangerous political repercussions in areas including chemicals and climate.** Campaigns designed to spread disinformation have a multiplying effect of increasing skepticism/lack of action, and delaying and stymieing action on both environmental and human rights protections by reducing the credibility of human rights defenders and increasing their safety risk.
- **While participation rights are recognized in international law related to environmental action, they are not adequately implemented.** The consequences of this include continued marginalization and a loss of the valuable leadership of indigenous peoples and local communities and other individuals and communities in vulnerable situations, as well as ongoing and growing threats to environmental human rights defenders.



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- **Meaningful structures of accountability and enforcement**, such as the possibility for civil society to trigger compliance investigations under the Aarhus Convention have not been included and operationalized in other multilateral environmental agreements, including those on chemicals and wastes.

Across the UN system, **institutional gaps have risen from a lack of policy coherence and leadership.**

- Specific SDGs and thematic priorities form the programmes of various UN agencies, however the recent biodiversity and climate crises have shown that **poverty alleviation and economic growth cannot be addressed separate from environmental protection, climate action, and fulfilment of human rights**, a point that has been further driven home by the COVID-19 pandemic.
- Therefore, **UN agencies (and member states) have a responsibility to interweave common mandates and programmes of peers working on similar development objectives**, in order to reflect policy coherence in integrating multifaceted issues, e.g. human rights with the environment.
- In addition to high-level policy coherence, **most programmes are missing the voices of indigenous peoples and local communities** – despite strong community voices calling for representation and inclusion and strong advocacy, including from OHCHR.

The panelists and participants identified several existing measures or processes that can begin addressing the challenges and capacity gaps in protecting the *Human Right to a Healthy Environment* and addressing the human rights harms caused by environmental degradation including climate change:

- **Recognizing the Human Right to a Healthy Environment at the international level can help to advance the discussion regarding both human rights and environmental protection. 150 jurisdictions have already recognized this right and some have implemented it with great success.** Some States have chosen to explicitly recognize the rights of nature, including in the constitutions of Bolivia and Ecuador, and through jurisprudence in Colombia and New Zealand.
- **The Escazú Agreement in Latin America and Aarhus Convention in Europe and beyond establish firm legal protections of participation rights as they relate to climate and the environment.** These agreements provide a foundation to reduce discrimination against marginalized communities and concretize public participation, access to information and justice in environmental matters.
- **The negotiations of the Post-2020 Global Biodiversity Framework offer an opportunity to address the interplay of human rights and environmental protection.** The Framework seeks to organize goals vs. solutions, and to evaluate short- and long-term impacts in a consistent, meaningful and transparent structure. Efforts are underway to ensure it effectively integrates, inter alia, human rights, gender equality, and intergenerational equity.
- The discussions expected at UNEA-5 on whether to launch negotiations on a new instrument on plastics, and at ICCM-5 on **how to address the international community's failure to reach the global 2020 goal regarding chemicals and wastes, offer an opportunity to inject a rights-based approach.**



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In light of the discussions, the following recommendations are suggested as actionable next steps:

- ***The Right to a Healthy Environment* should be recognized at the international level, as well as the duty of member states to address environmental harms.** This right includes procedural elements such as the rights to participation, access to information and justice and structural elements such as a safe and stable climate, healthy and biodiverse ecosystems, and a non-toxic environment, all of which are critical to the wellbeing of individuals and communities.
- **National and international standards** for the management of emissions, occupational health, trade, product, and food and drugs should be put in place and can be used as a measure to drive the integration of human rights and environmental protection and to give content to the *Right to a Healthy Environment*.
- **Human rights concerns should be strategically incorporated in the Post-2020 Biodiversity Framework**, including addressing gender equality, indigenous peoples, local communities, and issues of due diligence. Beyond targets that incorporate human rights concerns, there must be a focus on rights-based implementation.
- The integration of human rights in climate action should be furthered and accelerated, including through the implementation of **participatory and gender-responsive reporting mechanisms on climate action and climate commitments**. Human rights, gender, and the rights of indigenous peoples should be at the heart of climate change responses.
- There is need for a **holistic and effective approach to chemical control and management in relation to human rights**. This approach should include participatory and accessible accountability mechanisms and should be founded on facts and on respect for science.
- **The UN, and specifically the EMG, should take concrete action to break down the silos which often limit the mandate of different institutions** by emphasizing specific SDGs and thematic priorities for more effective impact on the ground. UN bodies and agencies are strong champions that are fully empowered by existing UN human rights mandates. **They have the agency to approach each other to interweave and integrate the right to a healthy environment in common development objectives and programmes.**
- **Notably, international environmental law and international human rights law cannot be separated and programmatically siloed.** Each give context and aid in the other's interpretation and vice versa.
- Human rights obligations apply to all State action, including that taken in forums dedicated to environmental issues such as climate change. **UN Agencies can work together to assist States in meaningfully fulfilling their human rights obligations in environmental action.**
- UN Agencies, along with regional actors and other stakeholders, should increase their collaborative efforts to address issues at the nexus of environment and human rights **in a manner that amplifies and values the participation of those in vulnerable situations and those most affected**, and that recognizes the intrinsic interdependence of people and planet.



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## Supporting Rights-Based Environmental Action: A Workshop (23 Sep 2020) - Concept note for the Issue Management Group available [here](#).

**The Workshop took place under the Chatham House Rules<sup>4</sup>, therefore the following section features key points from the discussion without attribution.**

- Participants welcomed the proposal of establishing an Issue Management Group (IMG) on Human Rights and the Environment, and were in general agreement with the objectives, outputs and activities as outlined in a draft concept note shared with participants prior to the meeting. The discussion focused primarily on the potential objectives and activities of the proposed IMG, relevant timelines, and possible outputs.

**Participants suggested the following regarding the potential scope and objectives of the IMG:**

- The IMG offers an opportunity to pool capacities and expertise with other existing groups and policies promoting the human right to a healthy environment across the UN, and related topics, such as the protection of environmental human rights defenders. Such integration of the human right to a healthy environment could e.g. include the work of UN country teams, human rights treaty-bodies and multilateral environmental agreements, drawing on existing UN efforts and guidance.
- The IMG would also support efforts to ensure a more coherent and consistent UN system-wide approach to human rights and the environment in line with the UN Secretary-General's Call to Action for Human Rights. The Call to Action, issued in February 2020, contains a dedicated section on rights of future generations, especially climate justice, highlighting as a key action going forward to "increase United Nations support to member states at field level for laws and policies that regulate and promote the right to a safe, clean, healthy and sustainable environment, and for effective individual access to justice and effective remedies for environment-related concerns"
- It was suggested that the IMG can create a linkage between technical discussions and high-level commitments of the UN, e.g. calling for recognition and implementation of the right to a healthy environment.
- The importance of access to remedies in environmental matters was also underscored by participants at the workshop.
- It was noted that the IMG should promote efforts to build back better and more sustainably from the COVID-19 crisis, including through supporting a rights-based approach to COVID-19 response and recovery efforts including green stimulus packages.
- Ways of facilitating enhanced coordination and information-sharing between UN entities and actors on human rights and the environment at the international, regional and national levels were also highlighted, including through developing a calendar of important events.

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<sup>4</sup> "When a meeting, or part thereof, is held under the Chatham House Rule, participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed." Source: [www.chathamhouse.org/chatham-house-rule](http://www.chathamhouse.org/chatham-house-rule)



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- The activities and scope of the IMG should also build on the expertise of regional commissions, and UN country teams that link both the national and global agendas, including when developing guidance and policy materials.
- While focus on biodiversity and human rights was seen as important given e.g. the negotiations of the post-2020 global biodiversity framework, it was suggested that such work broadly address people-centered and nature-based solutions to environmental issues, bearing in mind the political sensitivity of the ongoing negotiation process.

#### Regarding timelines, the following was highlighted:

- The timeline of the IMG and its outputs should coincide with the timeline for member states to update their Nationally Determined Contributions under the UNFCCC. An important contribution of the IMG could thus be to support guidelines for rights-based approaches in the formulation of NDCs.
- UNFCCC COP 26 and CBD COP 15 could be important fora to roll out materials developed by the IMG, with opportunities to mobilize different platforms and processes for sharing information and engaging on human rights and the environment also highlighted by participants, including the UN Environment Assembly, Conferences of the Parties to other multilateral environmental agreements, and the annual meeting of the World Economic Forum in Davos.
- The work and role of regional actors and processes was also highlighted as a key opportunity for engagement.

#### Possible outputs may include:

- **UN position paper(s) or messaging document(s)** covering relevant aspects on human rights and environment such as: climate action, occupational health and safety, access to natural resources and land, biodiversity, environmental justice, participation for indigenous peoples and local communities within UN processes, persons, groups and peoples in vulnerable situations, protection of environmental defenders (e.g. in the context of freedom of expression and the right to information). It was also suggested that such messaging documents cover rights-based green recovery and building back better from COVID-19, and that they be gender-responsive.
- It was suggested that messaging documents or key messages and capacity building material may be preferable to a position paper, and that clear, simple, concise positions and views can be used by UN senior management in advising states and other entities.
- **Guidance on integrating human rights in the development of national commitments under multilateral environmental agreements.** In particular, providing guidance for the integration of human rights in Nationally Determined Contributions and National Biodiversity Strategies and Action Plans, including promoting wider participation and consultation in their formulation was highlighted by the participants at the workshop.
- At the national level, the proposal to **develop guidance on integrating issues related to environmental rights and environmental human rights defenders in UN Common Country Analysis and United Nations Sustainable Development Cooperation Frameworks** was welcomed



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by the participants. Guidance drawing on and supporting safeguards, including the UN Model Approach, was also highlighted.

- **In general**, it was suggested that work of the proposed IMG could be conceived of as two parts, with the first part outlining the conceptual and normative foundation of the right to a healthy environment, and the second part providing guidance regarding the right in practice (including its protective and remedial mechanism). It was also noted that concrete clarification and guidance on the obligations of member states and other actors on mitigation, adaptation, implementation and compliance with the right to a healthy environment could be an important contribution of the IMG.
- While it has been a challenge to maintain momentum on the environmental agenda at the national/international level given the delays and impacts of COVID-19, participants highlighted that there were **nonetheless many opportunities to build on cross-UN coordination on promoting a rights-based approach to the environment**. This included several processes at the UNFCCC, the UNHCR High Commissioner's Protection Dialogue, and Sustainable Development Goals reporting and reporting to Human Rights Treaty Bodies/Universal Periodic Review as well as engaging with entry points for rights-based approaches in multilateral environmental agreements.

#### **Any Other Business and Next steps**

- Pending approval of the Issue Management Group by the EMG Senior Officials Meeting, participants welcomed the initiative and hoped to continue collaborating on this topic.
  - The inputs on the draft concept note for the IMG on the environment and human rights as received during the discussion at the workshop and in writing were integrated into a revised draft concept note, which is a background document to the 26<sup>th</sup> EMG Senior Officials Meeting (15 and 28 October 2020). At the October meeting, the EMG Senior Officials are expected to take a decision on the proposed establishment of the IMG.
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*We would like to thank the following high-level and expert panellists and organizations for their valuable contributions to the Human Rights & the Environment Nexus Dialogue Series.*

### **The Right to a Healthy Environment (24 July 2020)**

- Mr. David Boyd, Special Rapporteur on Human Rights and Environment
- H.E. Ms. Sabina Stadler Repnik, the Permanent Representative of Slovenia to UNOG
- Ms. Amy Wickham, Programme Specialist, Climate, Energy and Environment, UNICEF
- Ms. Soo-Young Hwang, Legal Officer, UNEP

### **Examining the Elements of the Right to a Healthy Environment (22 Sep 2020)**

- Ms. Astrid Puentes, Co-Executive Director, AIDA
- Mr. Marcos Orellana, Special Rapporteur on Human Rights and Toxics
- Ms. Tanya McGregor, Gender Programme Officer, CBD Secretariat
- Mr. Sebastien Duyck, Senior Attorney, Climate & Energy Program, CIEL

### **Supporting Rights-Based Environmental Action: A Workshop (23 Sep 2020)**

*In alphabetical order:*

- Basel, Rotterdam and Stockholm Conventions Secretariat (UNEP-BRS)
- Convention of Biological Diversity (CBD)
- Food and Agriculture Organization (FAO)
- International Civil Aviation Organization (ICAO)
- International Organization for Migration (IOM)
- International Labour Organization (ILO)
- International Monetary Fund (IMF)
- Office of the United Nations High Commissioner for Human Rights (OHCHR)
- United Nations Development Programme (UNDP)
- United Nations Economic Commission for Latin America and the Caribbean (UNECLAC)
- United Nations Environment Programme (UNEP)
- United Nations Educational, Scientific and Cultural Organization (UNESCO)
- United Nations Framework Convention on Climate Change (UNFCCC)
- United Nations High Commissioner for Refugees (UNHCR)
- United Nations Children's Fund (UNICEF)
- United Nations Entity for Gender Equality and Empowerment of Women (UN Women)
- World Food Programme (WFP)
- World Health Organization (WHO)
- World Trade Organization (WTO)

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**UN Environment Management Group Secretariat**

- Mr. Satya Tripathi, UN Assistant Secretary-General and Head of New York Office, UNEP and Secretary, EMG Secretariat
- Mr. Hossein Fadaei, Head of Office, EMG Secretariat
- Ms. Jannica Pitkanen, Programme Management Officer, EMG Secretariat
- Ms. Nina Arden, Nexus Dialogue Consultant, EMG Secretariat
- Ms. Irene Kariuki, Administrative Assistant, EMG Secretariat
- Ms. Fatema Johara, Administrative Assistant, EMG Secretariat
- Ms. Marine Lecerf, Intern, EMG Secretariat

**Office of the United Nations High Commissioner for Human Rights**

- Mr. Benjamin Schacter, Human Rights Officer, UNOHCHR
- Ms. Amanda Kron, Associate Expert, UNOHCHR
- Ms. Monica Iyer, Human Rights Officer, UNOHCHR
- Ms. Clarice Wambua, Consultant, UNOHCHR

**UN Environment Programme**

- Ms. Angela Kariuki, Programme Officer, UNEP
- Ms. Soo-Young Hwang, Legal Officer, UNEP