



**GHENT  
UNIVERSITY**

# GENERAL PRINCIPLES OF ENVIRONMENTAL LAW

Luc Lavrysen, Ghent 5 February 2019

# A GLOBAL PACT FOR THE ENVIRONMENT ?

- 1987: *Our Common Future*
  - Universal declaration on environmental protection and sustainable development with basic environmental law principles (1988)
  - Global Pact in second phase (1990-1993)
  - Provisional principles - 22 Articles – International Lawyers – For consideration of UNGA as starting point for negotiations (Annex 1)

# A GLOBAL PACT FOR THE ENVIRONMENT ?

- **1992: Rio Declaration**
  - Nothing happens with Global Covenant Idea
  
- **1996: IUCN World Congress Montreal**
  - Recommendation for adopting an International Covenant on the Environment and Sustainable Development
  - Draft International Covenant on Environment and Development
    - by IUCN Environmental Law Commission & ICEL

# A GLOBAL PACT FOR THE ENVIRONMENT ?

- Updated on the occasion of each IUCN World Congress
  - Fifth Edition 2015



Draft  
International Covenant on  
Environment and Development

– Implementing Sustainability –  
Fifth Edition: Updated Text

# A GLOBAL PACT FOR THE ENVIRONMENT ?

- ***Club des juristes*** (Paris) - 2015
  - The 2030 Agenda for Sustainable Development
  - SDGs
  - Paris Accord



ENVIRONMENT COMMITTEE - *November 2015*

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**INCREASING THE EFFECTIVENESS OF INTERNATIONAL  
ENVIRONMENTAL LAW**

*Duties of States, rights of individuals*

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# A GLOBAL PACT FOR THE ENVIRONMENT ?

- COP 21 December 2015
- Chair Laurent FABIOUS leaves active politics
- President of the Constitutional Council of France (March 2016)
- Chair of Expert Group for a Global Environmental pact – 150 lawyers – 50 countries
- SG: Yann AGUILA

# THE PROCESS

- Spring 2017 – 5 consecutive written consultations
- Preliminary Draft discussed and finalised on 23 June 2017 Constitutional Council





# THE DRAFT GLOBAL PACT - PRESENTATION



DRAFT PROJECT

## GLOBAL PACT FOR THE ENVIRONMENT

LA SORBONNE, PARIS  
24 JUNE 2017

# THE CONTENT

Art. 1. Right to an ecologically sound environment

Art. 2. *Duty to take care of the environment*

Art. 3. Integration and sustainable development

Art. 4. Intergenerational Equity

Art. 5. Prevention

Art. 6. Precaution

Art. 7. *Environmental Damages*

Art. 8. Polluter-Pays

# THE CONTENT

Art. 9. Access to information

Art. 10. Public Participation

Art. 11. Access to environmental justice

Art. 12. *Education and training*

Art. 13. *Research and Innovation*

Art. 14. *Role of non-State actors and subnational entities*

Art. 15. *Effectiveness of environmental norms*

Art. 16. *Resilience*

# THE CONTENT

Art. 17. *Non-regression*

Art. 18. Cooperation

Art. 19. *Armed conflict*

Art. 20. Diversity of national situations

Art. 21. Monitoring of the implementation of the Pact

Art. 22-26. Final provisions

**Comprehensive – Concise – Pragmatic Ambitious**

# PUTTING IT ON THE AGENDA

- French Diplomacy
- President Macron is pushing for it
- UNGA

**Seventy-second session**  
Agenda item 14

## **Resolution adopted by the General Assembly on 10 May 2018**

*[without reference to a Main Committee (A/72/L.51 and A/72/L.51/Add.1)]*

### **72/277. Towards a Global Pact for the Environment**

# PUTTING IT ON THE AGENDA

1. *Requests* the Secretary-General to submit to the General Assembly at its seventy-third session in 2018 a technical and evidence-based report that identifies and assesses possible gaps in international environmental law and environment-related instruments with a view to strengthening their implementation;

2. *Decides* to establish an ad hoc open-ended working group, under the auspices of the General Assembly, to consider the report and discuss possible options to address possible gaps in international environmental law and environment-related instruments, as appropriate, and, if deemed necessary, the scope, parameters and feasibility of an international instrument, with a view to making recommendations, which may include the convening of an intergovernmental conference to adopt an international instrument, to the Assembly during the first half of 2019;

3. *Also decides* that the ad hoc open-ended working group shall be open to participation by all States Members of the United Nations and all members of the specialized agencies;

(b) Substantive sessions, to be held in Nairobi, the first of which at least one month after the submission of the report of the Secretary-General;

# WHAT IS HAPPENING NOW ?

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United Nations

A/73/419\*



**General Assembly**

Distr.: General  
30 November 2018

Original: English

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**Third session**

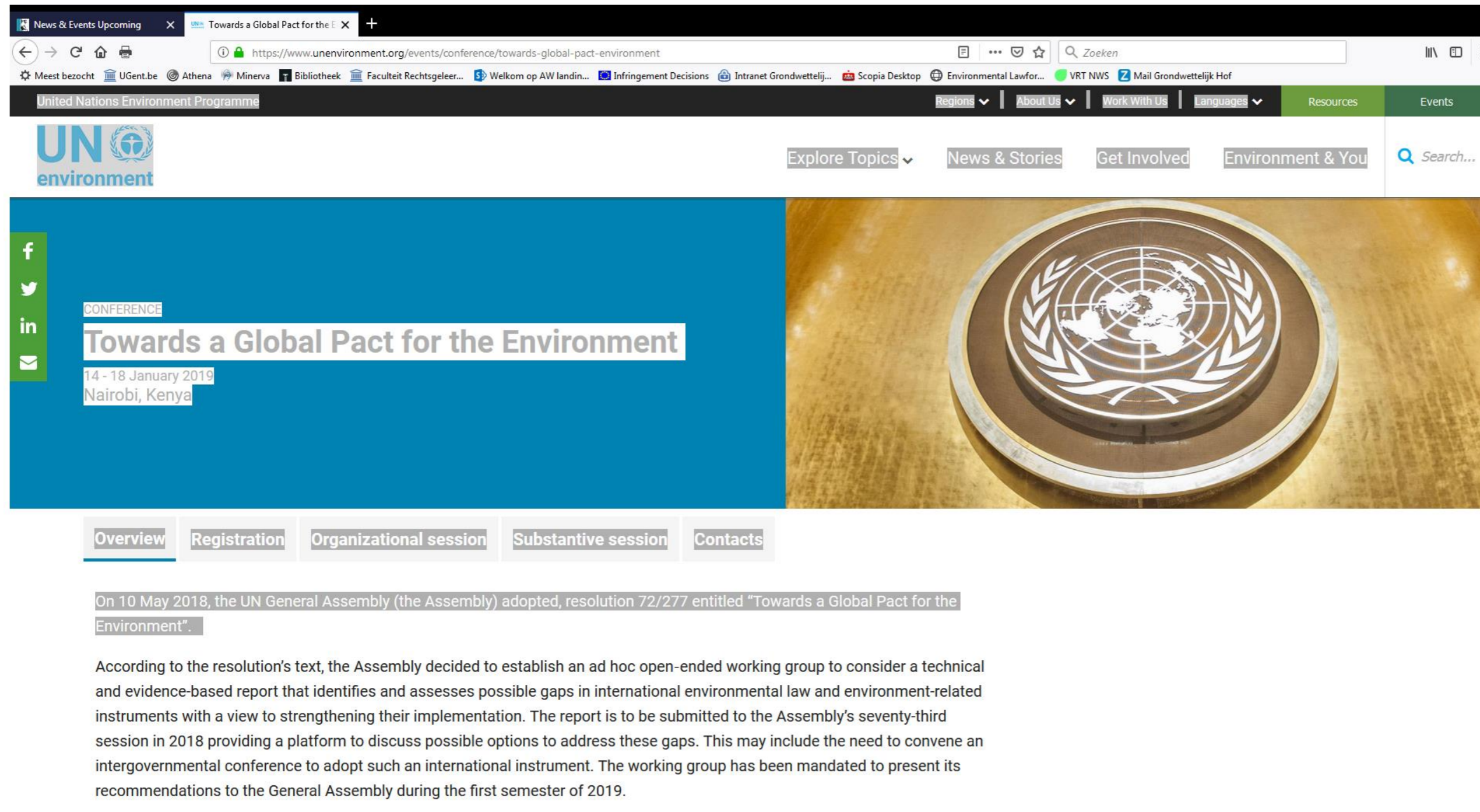
**Item 14**

**Plan and coordinated implementation of and follow-up to the outcomes of the major international conferences and summits in the economic, social and related fields**

**Gaps in international environmental law and environment-related instruments: towards a global pact for the environment**

**Report of the Secretary-General**

# WHAT IS HAPPENING NOW ?



The screenshot shows a web browser displaying the UN Environment website. The browser's address bar shows the URL: <https://www.unenvironment.org/events/conference/towards-global-pact-environment>. The website header includes the UN Environment logo and navigation menus for 'Regions', 'About Us', 'Work With Us', 'Languages', 'Resources', and 'Events'. Below the header, there are buttons for 'Explore Topics', 'News & Stories', 'Get Involved', and 'Environment & You', along with a search bar. The main content area features a blue banner with the text 'CONFERENCE Towards a Global Pact for the Environment' and the dates '14 - 18 January 2019' and location 'Nairobi, Kenya'. To the right of the banner is a large image of the UN emblem. Below the banner, there are tabs for 'Overview', 'Registration', 'Organizational session', 'Substantive session', and 'Contacts'. The 'Overview' tab is selected, showing a paragraph of text: 'On 10 May 2018, the UN General Assembly (the Assembly) adopted, resolution 72/277 entitled "Towards a Global Pact for the Environment". According to the resolution's text, the Assembly decided to establish an ad hoc open-ended working group to consider a technical and evidence-based report that identifies and assesses possible gaps in international environmental law and environment-related instruments with a view to strengthening their implementation. The report is to be submitted to the Assembly's seventy-third session in 2018 providing a platform to discuss possible options to address these gaps. This may include the need to convene an intergovernmental conference to adopt such an international instrument. The working group has been mandated to present its recommendations to the General Assembly during the first semester of 2019.'



# WHAT IS HAPPENING NOW ?



Global Pact 1 FINAL

## *Earth Negotiations Bulletin*

*A Reporting Service for Environment and Development Negotiations*

Vol. 35 No. 1

Online at: <http://enb.iisd.org/unep/globalpact/oewg1/>

Monday, 21 January 2019

### **Summary of the First Substantive Session of the *Ad Hoc* Open Ended Working Group towards a Global Pact for the Environment: 14-18 January 2019**

The first substantive session of the *Ad hoc* Open-ended Working Group towards a Global Pact for the Environment convened on Monday, 14 January 2019 at the United Nations

group (OEWG) to consider a technical and evidence-based report by the United Nations Secretary-General (UNSG) (A/73/419) identifying and assessing possible gaps in IEL and environment-related instruments with a view to strengthening their implementation. The resolution also recommends, if necessary, consideration of the scope, parameters, and feasibility of an international instrument, with a view to making recommendations that may include the convening of an intergovernmental

# WHAT IS HAPPENING NOW ?



# WHAT IS HAPPENING NOW ?

- Reluctance and opposition
  - What is a Gap ? That is not a Gap !
  - There are many more Gaps.....
  - That is a justified Gap .....
- What will come out the second and third session ?
- What will happen during next UNGA ?
- Are we too optimistic if we expect a Global Pact before **2050** ?

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