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Laws Protecting the Environment during Wars Need Enforcing and Strengthening to Deal with New Challenges

UN Environment Programme Report Launched on International Day for Preventing the Exploitation of the Environment in War and Armed Conflict

Nairobi, 6 November 2009 – Strengthening, enforcing and clarifying existing laws protecting environment in times of conflict could go a long way towards protecting a country's natural assets during wars, says a new report by legal experts released today by the UN Environment Programme (UNEP).

While laws such as Additional Protocol I to the Geneva Conventions do address environmental protection, their wording remains too "stringent and imprecise" it says.

The report's experts recommend that greater precision could be adopted, so that the threshold for environmental damage would be defined as severe environmental impacts over several hundred square kilometers and damage that persists for a period of several months or over a season.

Other recommendations include a new legal instrument that will 'demilitarize' and protect important locations and economically central ecosystems such as groundwater aquifers, agricultural and grazing lands, parks, national forests and habitats of endangered species.

"At the outset of any conflict, critical natural resources and areas of ecological importance would be delineated and designated as 'demilitarized zones' says the report, *Protecting the Environment during Armed Conflict: An Inventory and Analysis of International Law*.

The report, based on the expertise of 20 leading legal specialists, also underlines pressing new legal challenges.

International law regulating warfare was developed in an era of state-to-state conflicts.

Today the overwhelming majority of conflicts are internal, meaning that many environmental provisions – weak or otherwise – are not applicable.

In a message released today, the UN Secretary-General Ban Ki-moon says: "I call on Member States to clarify and expand law on environmental protection in times of war. Existing legal instruments should be adapted to reflect the predominantly internal nature of today's armed conflicts".

Achim Steiner, UN Under-Secretary General and UNEP Executive Director, said: "Destroying and damaging the natural assets and ecological infrastructure of a country or community should be an issue of highest humanitarian concern. The loss of freshwaters and grazing lands to croplands and forests not only leads to direct suffering, but also undermines the survival, the livelihoods and the opportunities for people to recover during and after a conflict".

"I therefore welcome this report, which is among the most comprehensive legal assessment of its kind, as well as its recommendations. I hope it will spur the international community to bring a modern perspective to bear on enforcing, clarifying and enhancing existing laws while focusing on the outstanding and emerging legal gaps linked with armed conflict," he added.

The report calls on the UN General Assembly to request the International Law Commission to carry out a review of the existing laws relating to the environment and conflict.

A permanent UN body, perhaps under the UN General Assembly or the Security Council, to monitor violations and process compensation for environmental damage may be necessary.

The report also calls for the international community to consider strengthening the Permanent Court of Arbitration to address disputes related to environmental damage during armed conflict.

It suggests that the coming year offers an opportunity to progress these legal issues, for example during the First Review Conference of the International Criminal Court State, which will be held in Kampala, Uganda in June 2010.

"Environmental protection should be considered during the First Review Conference of the International Criminal Court Statute in 2010," says the report.

NOTES FOR EDITORS:

About this report

This report inventories and analyses the range of international laws that protect the environment during armed conflict. With a view to identifying the current gaps and weaknesses in this system, the authors examine the relevant provisions within four bodies of international law – international humanitarian law (IHL), international criminal law (ICL), international environmental law (IEL), and international human rights law (HRL). The report concludes with twelve concrete recommendations on ways to strengthen this legal framework and its enforcement.

A joint product of UNEP and the Environmental Law Institute, *Protecting the Environment during Armed Conflict: An Inventory and Analysis of International Law* was co-authored by Elizabeth Maruma Mrema of UNEP's Division of Environmental Law and Conventions, together with Carl Bruch and Jordan Diamond of the Environmental Law Institute. It is also based on the outcomes of an expert meeting of 20 leading international legal specialists held by UNEP and the International Committee of the Red

Cross in March 2009 in Nairobi, Kenya. The report was produced and coordinated by the Post-Conflict and Disaster Management Branch (PCDMB) of UNEP's Disasters and Conflicts Programme, and co-financed by the Government of Finland.

The full report can be downloaded from:
http://postconflict.unep.ch/publications/int_law.pdf

About the International Day for Preventing the Exploitation of the Environment in War and Armed Conflict

In declaring 6 November of each year as the International Day, the UN General Assembly aimed to draw attention to the fact that damage to the environment during armed conflict impairs ecosystems and natural resources long after the period of the conflict, and extends beyond the limits of national territories and the present generation. For more information, see: <http://www.un.org/en/events/environmentconflictday>

About UNEP's Disasters and Conflicts Programme

The United Nations Environment Programme (UNEP) seeks to minimize environmental threats to human well-being from the environmental causes and consequences of conflicts and disasters. Through its Disasters and Conflicts programme, it conducts field-based environmental assessments and strengthens national environmental management capacity in countries affected by conflicts and disasters. Using state-of-the-art science and technology, UNEP deploys teams of environmental experts to assess environmental damage and determine risks for human health, livelihoods and security. Since 1999, UNEP has operated in more than thirty-five countries and published twenty environmental assessment reports. Based on this expertise, UNEP is providing technical assistance to a number of UN and international actors, including the Peacebuilding Support Office (PBSO), the Department of Peacekeeping Operations (DPKO), the Department of Field Support (DFS), the UN Development Programme (UNDP) and the European Commission, in assessing the role of natural resources and the environment in conflict and peacebuilding. The main objective of this technical cooperation is to prevent natural resources and environmental stress from undermining the peacebuilding process while at the same time using environment as a platform for dialogue, cooperation and confidence-building. For more information, see: <http://www.unep.org/conflictsanddisasters>

For more information, please contact:

Nick Nuttall, UNEP Spokesperson/Head of Media, on Tel: +41 79 596 5737, or Email: nick.nuttall@unep.org

Silja Halle, UNEP Communications Advisor, on Tel: +41 22 917 8441, or Email: silja.halle@unep.ch