

**Meeting of the Bureau of the COP  
Milan, Italy  
16 June 2015**

**Bureau COP/Inf.11  
Item V**

## **V. Consideration of the request submitted by Annex V country Parties on the scope and mandate of the UNCCD**

### **A. Background**

1. In March 2014, the secretariat received a communication from Armenia on behalf of the Central and Eastern Europe (Annex V), requesting the Executive Secretary to seek clarifications from the UN Office of Legal Affairs (OLA) on the “mandate and scope of the Convention regarding land degradation and the subsequent legal aspects for its implementation of the territories, which are not related to arid, semi-arid, and dry-sub-humid areas”. The same communication was transmitted to OLA through an Interoffice Memorandum later in March 2014.

2. In its response dated 10 April 2014, the Office of Legal Affairs stated that “OLA does not respond to questions from individual State Parties to a Treaty Body unless the relevant inter-governmental organ of that Body takes a decision in a formal meeting setting out the question(s)” and that “should Parties seek OLA’s assistance in interpreting the UNCCD’s mandate and scope then the relevant inter-governmental organ of the UNCCD would have to formally adopt a decision setting out the questions which the Parties wish OLA to address”.

3. In May 2014, the communication from Armenia and the OLA response were brought to the attention of the Bureau of the Conference of the Parties (COP) by its President, informing that “unless the Bureau has an objection to the approach, the [COP] President will request OLA to provide legal advice about the question asked by Armenia on behalf of Annex V”. The Bureau members were invited to provide the views of their respective regions on the proposed approach.

4. Comments were received from four regional groups; the responses indicated there was no consensus among the regions, with some supporting the request of Annex V and other noting that the COP is the only governing body with the mandate to address such matters.

5. The matter was further discussed during the second inter-sessional meeting of the COP Bureau, held in Bonn on 3 September 2014. As result of the COP Bureau deliberations, the President recommended that “the secretariat should prepare an elaborated paper with possible options to address the concern of Annex V countries”.

6. The present note - which contains a specific recommendation on this matter (please refer to section C below) - is submitted to the COP Bureau at its meeting on 16 June 2015, for consideration and any additional comments Bureau Members would like to make on this matter, before it is submitted to the COP for referral.

7. In this regard, COP Bureau members may also note that this item has been included in the draft provisional agenda of COP 12, which is before the Bureau for endorsement. Parties will then be given the opportunity to address this matter at the forthcoming session of the COP and make a decision as they deem appropriate.

## **B. Additional elements that Parties may wish to take into account**

8. The Parties may wish to take the following into account:

(a) The objective of the Convention is to “combat desertification and mitigate the effects of drought in countries experiencing serious drought and/or desertification (...)” (Article 2);

(b) Desertification is referred to in the Convention as “land degradation in arid, semi-arid and dry sub-humid areas resulting from various factors, including climatic variations and human activities”<sup>1</sup> (Article 1 (g)); “combating desertification” includes activities which are part of the integrated development of land in “arid, semi-arid and dry sub-humid areas” (Article 1 (b)) and “mitigating of the effects of drought” is referred to as “activities related to the prediction of drought and intended to reduce the vulnerability of society and natural systems to drought” (Article 1 (d));

(c) The Strategy as adopted by COP 8 is “to provide a global framework to support the development and implementation of national and regional policies, programmes and measures to prevent, control and reverse desertification/land degradation and mitigate the effects of drought”;

(d) With specific regard to affected countries and their obligations in the implementing of the Convention, responsibility is given to the same countries to report to the COP and to formulate and implement a national action programme (NAP) to combat desertification. Reports are being received from an increasing number of Parties<sup>2</sup> outside of the “drylands”, which are defining themselves as “affected country Parties” and as such, providing information on action taken at national level to combat desertification and land degradation including within their NAP.

9. The Parties may also wish to note:

(a) Recommendation 1 of the Advisory Group of Technical Experts (AGTE), which advised that “affected country Parties would delineate affected areas by using the UNCCD definition of drylands as the default definition. Additionally, affected country Parties may also delineate areas affected by land degradation beyond drylands”;

(b) The Land Degradation Assessment in Drylands (LADA), which shows weak correlations between aridity and land degradation in the period 1981 to 2003 and indicates that 78% of the observed global land degradation was in humid areas<sup>3</sup>;

(c) The final report of the Inter-Governmental Working Group (IWG) as regard to the definition of Land Degradation Neutrality (LDN) and the options to achieve LDN, which will be submitted to the Bureau of the COP, as well as to the subsidiary bodies, prior to COP 12.

## **C. Proposals to the Parties**

10. In view of above, it appears that the concern expressed by Annex V countries is more a question of fact rather than a question of law. Therefore, Parties may address this concern at COP 12 by using an appropriate language at decision-making level.

11. In this respect, the Parties may wish to duly consider whether the relevant COP decisions should also target affected country Parties, other than those in drylands. Accordingly, at the end of each such decision, the following language could be added:

*“Decides that the present decision applies to affected country Parties, as defined in article 1 paragraphs (h) and (i) of the Convention, as well as other country Parties that have identified themselves as experiencing drought and land degradation, at their discretion.”*

<sup>1</sup> These areas are those “other than polar and sub-polar regions, in which the ratio of annual precipitation to potential evapotranspiration falls within the range from 0.05 to 0.65”.

<sup>2</sup> Fifteen out of the sixteen affected country Parties of Annex V have submitted their national reports in 2014; according to the said reports, 80% of them have aligned their NAP or planned to conclude this process in the biennium 2014-2015.

<sup>3</sup> Bai, Z.G. (2008) “Proxy Global Assessment of Land Degradation” Soil Use Management 24 pp. 223-234