



CEL SPECIALIST GROUPS MEETING

1-2 JUNE 2006

FOZ DO IGUAÇU, BRAZIL

Minutes of the Meeting

Day 1

1. Call to Order /Opening of the Meeting and Welcome by Sheila Abed, Chair of CEL

The Chair of the Commission on Environmental Law (CEL), Ms. **Sheila Abed**, called the meeting to order at 9:00 a.m.

The Specialist Groups (SG) Chairs present at the meeting are: **Klaus Bosselmann** (Ethics SG), **Ben Boer** (Protected Areas Inter-Commission Task Force) **Ian Hannam** (Sustainable Use of Soils SG), **Nicolás Lucas** (Trade & Environment SG), **Richard Ottinger** (Energy Law and Climate Change SG), **Lee Paddock** (Enforcement & Compliance SG), **Vladimir Passos** (Judiciary SG), **Romina Piccolotti** (Human Rights and the Environment SG), **Marta Rovere** (Water SG), **David VanderZwaag** and **Nilufer Oral** (Oceans, Coastal and Coral Reefs SG), and **Eugenia Wo Ching** (Biodiversity SG).

The CEL Chair welcomed the Chairs of the Specialist Groups and guests, and delivered her opening remarks. She expressed her deep satisfaction at being able to organize this historic first ever meeting of CEL Specialist Groups. While it involved a big financial and in kind effort, the Chair stated that she saw it as being critical to the Commission and IUCN making the best possible use of the wonderful work done by the SGs.

Ms. Abed particularly thanked the Steering Committee Members Prof. **Antonio Benjamin** and Dr. **John Scanlon**, the ELP/ELC Director Dr. **Alejandro Iza**, and the special guests Prof. **Ron Engel**, and Dr. **Jorge Caillaux**, for attending the meeting.

The following Specialist Group Chairs sent their regrets for being unable to attend the meeting: Ms. Lynn Holowesko (Governance SG), and Mr. Michael Bothe (Armed Conflict and the Environment SG).

2. Discussion of the Draft Agenda and the Outcomes sought from the meeting.

After the Agenda for the meeting was adopted, the Chair addressed the participants of the meeting, reminding them that the purpose of the meeting was to gain a collective understanding of each others work, to promote co-operation between all Specialist Groups and the Steering Committee, discuss their work plans and priorities in the context of the CEL Mandate and ELP Programme, and explore sources of funding their work. She noted the importance of promoting work between the Specialist Groups, with other Commissions and identifying major crosscutting themes.

She also informed the SG Chairs that at the last Bonn Steering Committee (SC) Meeting, the SC Members stressed the importance of the role of the Specialist Groups' Chairs and Co-Chairs as CEL leaders and working partners for an active and successful Commission, and discussed the need to adopt agreed ways of effective communication and co-ordination within and between the Specialist Groups, and with the Steering Committee.

3. Presentation of the Strategy of the Commission.

The Chair informed the meeting that the CEL Strategic Plan was still being discussed and further developed. The Chair stated that she is eager to incorporate the outcomes of this meeting into the planning process and in this endeavor she was receiving the valuable support of Miguel Pellerano, a former IUCN Regional Director. The Chair reminded the meeting that we are all working in accordance with the CEL Mandate and ELP Programme.

4. Introductions and presentations by each Specialist Group.

Each SG Chair briefly introduced themselves to the meeting and made a presentation on their work plan, based on documents previously sent to the participants attention. They described their work plans (when already available), activities carried out to date, their vision on their group's development and proposed future activities and they also shared their expected outcomes from the meeting as.

The CEL Chair particularly commended the Ethics SG and the Sustainable Use of Soils SG on the advances made, while also noting the excellent work of the other established Groups including the Climate Change and Energy SG. She said it set a great example of what newly created Groups can achieve.

Some important conclusions, recommendations and observations that arose from the presentations and subsequent discussions were:

- A strongly expressed request for documents to be translated in at least all of the official IUCN languages.
- The value of taking a multi disciplinary approach and to involving non lawyers in CEL and its SGs.

- The importance of CEL members, and in particular SG members, being well acquainted with the IUCN Mandate, Programme and relevant Congress resolutions and the need for the ELC to assist in this regard.
- The usefulness of relevant ELP studies and publications and for CEL to make the best use of them, such as the Draft Covenant on Environment and Development (IUCN/ICEL)
- To link CEL's work closely with the ELC in Bonn and through it with the IUCN Secretariat more generally, especially in accessing programme funding, accessing relevant information and participating in major UN events, such as CSD 15.
- To take the opportunity to hold side meetings of CEL and CEL SGs at CoPs and UN meetings.
- The importance of communications and of the expanded use of the ELP website, such as dedicated pages for SGs and List serves.
- Drawing upon the IUCN Academy as a research arm of the Environmental Law programme..
- Having CEL/ELC evaluate the possibility of launching an Environmental Law e-training initiative.
- A request that CEL sign an MOU with INECE.
- A proposal that links be established with collegiate organizations and institutions, such as the International Commission of Jurists, Schools for the Judiciary, Bars, etc.
- Noting that law students are an interesting target for the creation of correspondents' networks, and work on best practices.
- The definition of values will provide a strong basis for sustainability supporting the work of the Ethics SG.
- The need to integrate the cross-cutting SGs with the thematic SGs and also with other Commissions for example Human Rights, Compliance and Enforcement and Ethics.
- To design a strategy to promote the engagement of people of the underrepresented regions on the Commission.
- The need for everyone to work with the CEL Chair to build membership of CEL and its SGs.
- The immense value of having a meeting of SG Chairs, which should become an annual event

5. Discussion of the Commission's Strategy and how SGs can help advance the achievement of the Mission, Goals and Objectives set out in the CEL Mandate.

After dynamic discussion, the following recommendations were made:

- Specialist Groups should promote through their work, the work of CEL, and add precise work to the goals and objectives of CEL.
- Dialogue must be fostered among all Specialist Groups and with the other IUCN Commissions, as well as joint work in crosscutting issues (for example Water SG/Soils SG/Human Rights, Energy & Climate SGs).

- Specialist Groups' Chairs should promote with their members, the organization of regional activities.

Day 2

6. CEL Membership

The Chair briefly explained the on-going mechanism for incorporation of new members. She also explained the several categories of membership, and the fast-track system, through which members are directly incorporated to CEL Membership on the recommendation of one of the Steering Committee members or Chairs of the Specialist Groups.

Prof. Antonio Benjamin suggested that one of the Steering Committee members who has the time may be willing to attend the Junior members area, so that CEL could take advantage of the great potential of the younger members. Dr. Caillaux says that young members could be very efficient in activities such as offer updates on laws and regulations of their countries of origin.

Romina Piccolotti suggested that each Specialist Group identify activities in which young members could take part. John Scanlon mentioned that many young lawyers had recently joined the Oceania CEL network organized by him, and that they cooperate with the network both through the contribution of their own institutions, such as the Environmental Defender's Office (NSW) and News South Wales Young Lawyers Committee, and their personal endeavours. He advised the CEL Oceania Listserv has helped keep the network together. Ben Boer pointed out that many young professionals write very good papers, and that CEL could also take advantage of that.

Eugenia shared with the meeting the experience of her local biodiversity institution, mentioning that they search in the Universities for volunteers, and those that turn out to be more interested and involved and are more actively engaged.

David VanderZwaag asked whether junior members need to have their degree completed, or if last year students may join. Judge Vladimir Passos considers that it may be a good idea to accept advanced students, as many of them go directly to work after receiving their degrees.

The CEL Chair said that this issue requires more thought and planning, and that the Steering Committee will give it the utmost importance.

On the membership reconstitution process, Prof. Ottinger mentioned that some people were reluctant to have to reapply, and that he recommends that they be contacted making it clear that anyone who has been a member may continue to be a member, and that they should just update their contacts. Jorge Caillaux agrees with this, and says that a good letter, informing of this process should be sent.

The Chair said that unfortunately some people misinterpreted the Commission's reconstitution process, perhaps not knowing that this is a mandatory requirement of the IUCN Statutes, but she agrees that more effort can be done to explain to former

members and retain them in the Commission, which she is very keen to do. She also explained that the database of members was not up to date and the process of reconstituting the Commission was assisting this process.

All SG Chairs agreed to assist the CEL Chair to reconstitute and further build the membership.

7. Draft Protocol on Specialist Groups Operation

The CEL Chair asked SC Member John Scanlon to share with the meeting the content of the Draft Protocol. After Dr. Scanlon took the participants through the text, he requested feedback from all participants.

Marta Rovere asked how the SC Liaison had been working. John explains that the former Commission wrestled with the same issue and ultimately decided to vest the responsibility in one member of the Steering Committee to act as the link to all the SGs. He explained that this was one possible model that was not fully put into place, but it places a lot of work on just one person.

Antonio Benjamin continued the explanation saying that there is a SC Member that acts as Liaison to each Specialist Group. Some SC Members are Liaisons for more than one Specialist Group. They do not interfere in the Group's performance, they just link the Group's work to the Steering Committee, and therefore he/she should be copied and informed of the Group's progress, but not necessarily consulted, unless they seek for his/her advice.

Dr. Caillaux suggests –based on a question raised by Judge Passos- that the Liaison could intervene to settle differences between both Co-Chairs should they not agree on a particular issue.

Prof. Ottinger said that it would be good if all Specialist Groups share with their SC Liaisons not only their advances, but also their projects. The meeting agrees with this opinion.

Nicolas Lucas asked about the relationship between the Specialist Groups and the Secretariat. Dr. Iza explained the relationship and stressed that the IUCN DG promotes the idea of one single integrated Environmental Law Program, and encourages the implementation of mechanisms in which ELC/CEL/Secretariat could better integrate. He keeps saying that there will continue to be an ELC officer appointed as Liaison to each Specialist Group, and that has proven to be of great help over the past five years.

Prof. VanderZwaag inquired about the periodicity of the submission of reports by the SG Chairs to the CEL Steering Committee. John Scanlon suggest that a template for reports be developed, so as to standardize the presentation of reports, and that the periodicity should be of once or twice a year. The group agreed to do it once a year.

Prof. Paddock asked what is the timeframe to spend the annual seed funds received by the Specialist Groups. The Chair answered that funds needed to be spent during each regular calendar year. The CEL Chair continued to explain the methodology to access

these funds, saying that each Group's Chairs should jointly present an agreed work plan, normally not later than March 1st -but this year not later than July 15th - containing an explanation about what would they be investing the funds in. After the work plan is approved by the Steering Committee –which should not take more than 2 weeks- the Chairs may request the wiring of the funds. She stressed that should a group not present an acceptable work plan within this time frame, the funds originally set aside for them would not be allocated and could then be distributed among the most active SGs. She stressed that this is not automatic and each SG chair should push the process.

The Chair also mentioned that each Group may develop proposals and seek additional funding from foundations or cooperation agencies, but only after the Steering Committee approves those proposals, and authorizes the contact with the potential donors. At this point, Dr. John Scanlon stated that the SG Chairs should be opportunistic in securing funds just as the Soils SG had been. This did not necessarily require them to develop detailed proposals. He joined the CEL Chair in stressing the fact that if the work plans are not received by the established dates, no funds will be available for that Group.

Mr. Hannam mentions the fact that they have found it very positive to establish associations or key alliances with particular global institutes. He emphasized that one of the most important areas of funding where national legislative and policy frameworks for soil protection can be implemented is through national and regional projects developed under the UNEP Global Environmental Fund and other international donor environmental programs.

Mr. Lucas was interested in knowing what funds can be applied towards. The Chair advised she would apply the ordinary restrictions contained in projects' funding, but she exhorts the SG Chairs to be very careful at reporting the use of funds, keeping every invoice, as IUCN is extremely strict when approving financial reports. Dr. Caillaux also intervened saying that he was part of the IUCN Auditing and Finance Committee, and that he earnestly reaffirms Ms. Abed's recommendation.

Finally Prof. Paddock asked if non-CEL members could be part of the Specialist Groups. The Chair answered that this is possible, and that every new potential SG member who is qualified for CEL Membership should be first nominated for CEL Membership, which would of course be treated under the fast-track admission procedure, but it is not mandatory that they should be lawyers.

To finalize this point, Dr. Scanlon, who was in charge of drafting the Specialist Groups Protocol says that he had taken note of the input received, and that he would soon get back to the SC through the CEL Chair with the revised version.

8. The Academy

Prof. Boer asked the Chair for her consent to address the meeting, to explain the process and outcomes of the license agreement between IUCN and the Academy (IUCN Academy of Environmental Law). He indicated that after a period of intense negotiations, the license agreement was finally signed. He recognized the time and

effort of Dr. John Scanlon in this endeavour, representing CEL in the negotiations and Dr Iza and Dr. Zaccagnini from the Secretariat.

Prof. Boer mentioned that the Academy wishes to collaborate with CEL and ELC on research and educational programs. He also explained that the Academy is not financially dependent on the ELP or IUCN and that the Academy will regularly reports to the ELP and the Council, as agreed in the MOU.

Prof. Paddock added that one of the things that the Academy wants is to team Universities from different parts of the world.

Finally, the Chair said that she was glad the negotiation process has come to an end with every party's interests being well attended to, and she thanked CEL Vice Chair John Scanlon for having spent a good deal of time in this effort.

9. Communications

The CEL Chair mentioned that in an effort to give each SG its own platform to communicate, a space will be created for each group inside the ELP's web page.

Dr. Iza reminds the meeting that this space should reflect the new IUCN visual identity, and that ELC will provide the know-how to accomplish this.

The CEL Chair continued saying that list serves will also be created for each SG, where herself, Dr. Iza and the SC Liaison for the group will be copied. She also mentioned that the digital newsletter will continue to be sent every 3 months.

Ms. Wo Ching asked if information in the SGs pages is to be posted in the language it is sent, or whether it should be translated to other languages. After an exchange of opinions it was decided that it won't be necessary to translate all the information. An exception would be made in the case of very important documents.

Finally, the Chair urged the SG Chairs to take the best advantage of all the Communication tools available, and to inform about their activities and plans.

10. Short-term projects for each Specialist Group:

Some of the SG Chairs participating of the meeting shared their short-term plans:

Sustainable Use of Soils Specialist Group:

Accomplishment of WCC RES 3.072 - Draft Protocol for the Conservation and Sustainable Use of Soils. Prof. Boer, one of the authors of the Draft Protocol mentioned that the document still needs drafting work, and that much broader technical input was still needed before its finalization. He also mentions that the SG cannot say this is an IUCN protocol until it achieves the CEL's formal endorsement, and until the Council decides it wants to back it.

Dr. Hannam added to Prof. Boer's views and said that they are expecting a very firm endorsement of the Council; he also commented that the Government of Iceland is willing to support the process. It was emphasized that the "Draft Protocol for the Conservation and Sustainable Use of Soil" had been prepared by the Specialist Group in cooperation with the Soil Scientists Expert Reference Group as part of the process to improve national legislation for soil conservation and develop a more adequate basis for international legal protection for soil. Dr. Hannam and Prof. Boer outlined that the concept of the Draft Protocol, as presented in the draft, represents the type of provisions that could form the basis of an international instrument for sustainable use of soil as required under the IUCN World Conservation Congress Soil Resolutions (October 2000 and November 2004). In this regard, the Draft Protocol does not represent the views or position of the IUCN itself. It is the aim of the Specialist Group at this stage to use the Draft Protocol as a basis for comment and discussion and in this regard eventually work towards the preparation of options for an international instrument for soil for consideration by IUCN Council as appropriate.

Dr. Piccolotti mentioned that she had the chance to read the Draft Protocol on Soils, and she was wondering whether it was still in revision, and if it could be circulated among the other Specialist Groups for opinion. Her particular interest is based on the fact that she realized there are many aspects of the Protocol that are linked to Human Rights.

Antonio Benjamin mentioned that after the last Steering Committee meeting in Bonn, the document was sent to all the SC Members, and that it may be important to remind them of the need to make comments, if any, giving a deadline of perhaps not more than 10 days to receive them. He mentioned this is an excellent product to submit to the next World Conservation Congress to be held in 2 ½ years.

The Chair said that the document should definitely be passed to all the Specialist Groups to obtain their input. Dr. Scanlon mentioned that it is important that CEL controls the release of the document in the first instance, and maybe share it with interest groups, before passing it to the Council.

Lastly Dr. Hannam mentioned that the SG is also planning to produce various additional publications on scientific and legislative aspects of soil conservation and protection to support the concept of the draft Protocol and as part of the implementation process of the IUCN ELP publication 52 - Drafting Legislation for Sustainable Soils: A Guide. One of the key documents proposed is a Law Commentary, which would comprehensively set out the legal context of the scientific aspects of sustainable use of soil.

Ethics Specialist Group:

Accomplishment of WCC Resolution WCC3.020 – Drafting of a Code of Ethics.

Prof. Bosselmann advised the meeting that next September 24/25 a workshop is being held at IUCN headquarters in Gland, Switzerland, to begin the task of drafting a Code of Ethics for Biodiversity Conservation. He said they are planning to finalize the Code early 2008 and present it to the WCC.

The Chair reaffirmed her entire support to this task and she committed herself to request the presence of the other Commission Chairs –or their representatives- to the September workshop.

Energy Law and Climate Change Specialist Group:

The Leveraging Initiative - Prof. Ottinger told the meeting that the Leveraging Initiative Directors, Bill Jackson, Jeff McNeeley and Andrea Athanas invited him to be on the steering committee. This is part of the development of an Energy Policy operated through the UN agencies.

Some past initiatives are a UNEP Handbook for Draftsmen on Environmentally Sound Legislation for Energy Efficiency and Renewable Energy, and assistance to UNDP in editing the World Energy Assessment.

He advised that the SG partnered with The American Council for an Energy-Efficient Economy's Stephen Nadel in conducting a CSD-14 Learning Centre Workshop on Energy Efficiency in the Development6 Process.

Prof. Ottinger mentioned that they are preparing case studies for the Leveraging Initiative and UNDESA on challenges, successes and failures of clean energy initiatives; as well as a briefing paper on cross-section between energy and biodiversity.

The CEL Chair expresses her entire support and underscores the great value of Prof. Ottinger work.

Enforcement and Compliance Specialist Group:

Prof. Paddock began by saying that his SG has plans to develop a Curriculum on Multilateral Agreements' enforcement. He also told the meeting that they will work with the Marine Programme on Black Sea issues, involving INECE, as well as on vessel pollution issues.

He also expressed their intention of working with the Ethics SG in more depth, highlighting the role of values in compliance.

Finally, he suggested fostering a closer relationship between CEL and INECE; to which the CEL Chair advised that she totally agreed and that she will personally be in charge of pushing such a collaboration agreement with INECE.

Biodiversity Specialist Group:

Ms. Wo Ching said that her first challenge will be working to reactivate the Group's membership and that she is planning to follow closely the next 3 SBSSTAs. She also mentioned that they will work on at least 2 publications.

Human Rights Specialist Groups:

Ms. Picollotti mentioned that her group will be working on following some processes at the OAS, and pushing relevant resolutions.

She emphasized that there is also a lot going on at the UN, for example on the Civil & Political Rights Additional Covenant.

Trade & Environment Specialist Group:

Nicolás Lucas said that he will start by consolidating his group, and that therefore he still has no short-term plans for events or similar projects. He has worked in the

Millennium Ecosystem Assessment and he finds that there is an opportunity to work on issues related to environmental services area that is very poorly developed yet.

Water Specialist Group:

Ms. Rovere considered that she must start by knowing people and interacting more with her Co- Chair, Prof. Rosemary Lyster. Immediately after, she is interested in drafting a handbook on guidelines for modern water legislation drafting.

Oceans, Coastal and Coral Reefs:

Prof. Nilufer Oral and Prof. VanderZwaag shared with the meeting their intention of working in high sea governance issues. They will also be trying to hold a meeting on Oceans and Law of the Seas. They will be attending conferences such as “Mediterranean Sea project” and “Regional Seas Programme”.

Judiciary Group

Prof. Vladimir Passos de Freitas commented about the initiative of making a Judiciary Portal and the development of a network of correspondents to get the information on this database. Another important issue in which the group will like to work is access to justice and the valuation of damage in environmental issues.

CEL/WCPA Inter Commission Task Force on Protected Areas

The CEL/WCPA Inter Commission Task Force on Protected Areas is intended to be in operation for three years. Its brief includes examination of law and policy public and private land tenures for protected areas and their management. A particular focus will be on indigenous and local community issues. Its reports are intended to include a wide range of recommendations directed to consistent approaches to the management of protected areas.

Prof. Boer will act as Co-Chair on this Inter Commission Taskforce, representing WCPA. The terms of reference will be refined in coming months, and, members of the task force will be nominated after negotiation between the Commission chairs. .

11. Chair’s presentation on a publication on governance.

After thanking the SG Chairs the CEL Chair addressed the meeting saying that she wished to leave as a legacy of this Commission by producing something that will remain and be useful, as it is for example the “Red List of Endangered Species”. She is thinking of a tool such as a “White Book on Environmental Governance”.

After rich discussion on the feasibility of such a great task, the meeting supported the Chair, and she committed herself to draft a concept paper and to circulating it at as soon as possible. She explained that this tool should start with a conceptual / theoretical focus, to afterwards get more practical.

Meeting Adjournment

The CEL Chair advised that she would accept the unanimous recommendation of the meeting to make the CEL SG Chairs meeting an annual event, which received warm support from the meeting.

The CEL Chair warmly thanked all those present for attending this historic meeting and for their support, and adjourned the meeting at 17.00 hours.