



Environmental LAW Programme

January-April 1998

Public Participation Convention finalized

The Member States of the UN Economic Commission of Europe (UNECE) have negotiated a Convention on "Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters" that is now ready for signature at the fourth Ministerial Conference "Environment for Europe" in Aarhus, Denmark, 23-25 June 1998. In a draft resolution also to be adopted at Aarhus, all Member States of the UN and/or other regional commissions are invited to accede to the Convention, and other international organisations are encouraged to develop appropriate arrangements in the same fields as the Convention.

To a large extent, the Convention regulates relations between the public and governments. Its main focus is on national administrative and procedural law. Implementing the Convention will require focusing on administrative law. In particular, administrative legislation regulating the competences and functions between and within authorities as well as the procedurally oriented administrative legislation will be important, as will legislation governing court procedure.

The Convention has three pillars: access to information, public participation, and access to justice. A brief

descriptive overview of the Convention is presented below.

Access to environmental information
A general right for everyone to access environmental information held by public authorities is proclaimed by the Convention. "Environmental information" means any information in written, visual, aural, electronic or other material form on, *inter alia*:

- the state of the elements of the environment (such as air or soil);
- factors likely to affect the state of the environment (factors such as emissions, but also factors such as decisions, legislation and policies); and
- human health.

A request for environmental information should be responded to within one month. A person requesting information does not have to state any interest in the matter. As a rule, the information shall be provided in the form requested. Information which would adversely affect important national or private interests is exempt from disclosure. If a request for access is refused on the basis of an exemption, reasons shall be stated for the refusal.

Public authorities should possess and update all environmental infor-

mation relevant to their functions and they must actively compile environmental information and make it accessible to the public. These requirements and transparency in general shall be ensured by arrangements such as setting up registers, assisting the public in locating information and providing access to registers free of charge. Regular national reports on the state of the environment shall be published. Pollutant release and transfer registers have to be established.

Environmental information shall progressively be made available in electronic databases, easily accessible to the public through public telecommunications networks (Internet).

Public participation in environmental decision-making

A range of activities for which public participation mechanisms must be provided is listed in an Annex to the Convention, including permitting pro-

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cedures for: energy sector establishments, metal production, mineral industry, chemical industry, waste management and waste-water treatment plants. The public shall be informed early on in environmental decision-making procedures, and the Convention has detailed provisions as to the kind of information to be provided. The public participation process shall include reasonable time-frames for different phases. In the permit decision-making process, due account must be taken of the outcome of the public participation procedure preceding the decision. The decisions and their motives have to be made available to the public.

Appropriate arrangements for participation have to be developed with regard to public participation in formulating plans and programmes related to the environment. To the extent "appropriate", Parties shall "endeavour" to provide opportunities for public participation in preparing policies related to the environment.

Access to justice

Article 9 partly constitutes progressive development of the international law in this field: judicial or administrative proceedings have to be established which provide adequate and effective remedies and are fair, equitable, timely and not prohibitively expensive. The review procedure covers both the rights under the Convention and the right of the public, under some conditions, to access administrative and judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of national law relating to the environment. NGOs are given a wide right to access to justice.

Keeping in mind that the regulations in Article 9 strongly relate to the core of national procedural law, one may predict implementation problems. For example, it is not uncommon in national legal systems for the protection of the environment to be considered protection of the public good. Therefore, public authorities are oc-

asionally given an exclusive right (and duty) to initiate legal proceedings against persons contravening provisions of environmental law. Paragraph 3 of Article 9, however, creates a general right of access to justice for members of the public to challenge acts and omissions which contravene provisions of national law relating to the environment. No exemption is made for matters in which a public authority currently has an exclusive right to initiate legal proceedings. Also, the same paragraph provides that legal proceedings may be taken (*inter alia*) against public authorities' acts and omissions which contravene provisions of law relating to the environment. In other words, the lack of action of an authority with regard to a legal provision "relating to the environment" is sufficient for anyone to initiate legal proceedings against that authority.

The Convention is a landmark in its field, and will hopefully be quickly ratified and implemented.

— AHE

Contact the ELC for a copy of the full text of the draft Convention, or access it under: <http://www.participate.org>
Homepage of the Aarhus Conference: <http://www.mst.dk/aarhus-conference>

Statement by the Representative of IUCN

Wolfgang Burhenne, CEL Liaison with the UN System, has represented IUCN throughout the Convention negotiations. Here are extracts from his statement upon conclusion of the last negotiating session.

...
We are thankful that the draft Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters is now in front of us... [It] ... was made possible by the broad support of the ECE Member States, in spite of their historical political differences.

...
The text is a first: while national legislation and EC instruments already exist, it is the first time that a multi-lateral agreement would be concluded on this subject.

...
One should not underestimate the fact that this is a text reflecting what present political circumstances allow. We have been participating successfully in many negotiations, but this time IUCN, as an organization comprised of both governmental and non-governmental members, was often in a difficult situation. Difficult because there was — and still is and will be — a wish on the part of the NGO community to achieve more, and difficult because of the difficulty of the governments as a group to go further at this point in time. It has been said that when both sides are

not completely happy, one has a good compromise.

...
While it is realistic to start with an instrument which is acceptable to all potential Parties, implementation will show that there is room for improvement. We are not at all happy with Article 15, and therefore support both the Danish proposal and the improvements proposed by the NGO Coalition. It goes without saying that IUCN is strongly in favour of the draft resolution urging States in other regions of the world to follow the path shown by the ECE Member States.
...

Commission on Environmental Law

Message from the Chairman

ENVIRONMENTAL IMPACT ASSESSMENT REDUX

Environmental Impact Assessment, or EIA, has matured as an efficient and effective governmental decision-making process to help ensure environmentally sound development. Despite nearly three decades of use, EIA laws are not yet enacted in many jurisdictions. In others, laws adopted in the past need to be revisited and revised in order to incorporate the EIA enhancements that have been pioneered and refined in other states. EIA is a system that improves by experience and comparison. Lawyers, scientists, corporate managers, NGO leaders, government officials, and the general public all learn by doing EIA and sharing their experience.

EIA redux, or the rise again of EIA to a central role, is a persistent theme in environmental law. EIA is initially adopted when social disputes over neglected adverse environmental impact have alerted political leaders to the need to make improvements in their decision-making. EIA laws provide for the advance identification of possible environmental effects of a project or programme, as well as the alternatives to the proposal and procedures for consulting with the public and all stakeholders affected by the proposed action. The general outline of standard EIA procedures has been endorsed by the UN Environment Programme Governing Council in its "Goals and Principles of Environmental Impact Assessment" (17 June 1987), and adopted in over 150 different States around the world. The Espoo Convention on EIA in a Transboundary Context prepared by the UN Economic Commission for Europe (25 February 1991) offers standard procedures in a treaty context.

EIA works equally well in developing nations and in developed nations. The Russian Duma and Federal Soviet have enacted, and Russia's President has signed into law, EIA for Russia's economy in transition (Federal Law of Ecological Expertise, No.4556, 27 November 1995). Where EIA is not used, the reason is often either that the relevant authorities have not been trained in the techniques of EIA, or that there is resistance from vested interests which prefer to continue unbridled exploitation of natural resources for short-term gain at the expense of the environment off site or in the future. EIA can remain controversial long after enactment; even within the USA, the nation that first conceived the process, while the Army and Transportation Departments use EIA very effectively, the Legal Advisor's Office of the US State Department still resists all use of EIA, largely out of ignorance about how EIA operates in practice.

Two leading jurisdictions are currently revisiting their EIA procedures, in order to study how to improve them. Canada will bring a review of five years of experience under the Canadian Environmental Assessment Act in 2000. Section 72 of the CEAA mandates this revisiting of the EIA process. Canada has made significant advances in EIA methodology in the past, and will now provide EIA specialists world-wide with a further review of how to enhance the process. Japan's Environment Agency is also very close to presenting EIA legislation for enactment; it completed a revised draft law in February of 1998; this law would provide a statutory basis for EIA nationally. Since the early 1970s, EIA in Japan has been undertaken by administrative procedures adopted by Cabinet and various agencies, although some Prefectures have enacted local laws requiring EIA within their jurisdictions. If enacted, this excellent draft will bring Japanese EIA practice into accord with international standards, and will significantly enhance public participation in EIA decision-making. This Japanese draft also warrants close study.

CEL Members are invited to share their EIA experience with Canada and Japan. We shall, in turn, all learn from the deliberations in these two nations.

With best regards,



Nicholas A. Robinson

The EU and Access to Environmental Information: An Introduction

Environmental information has been a policy issue for the European Community since the early 1970s. The initial focus was on the State level: the 1st, 2nd and 3rd Environmental Action Programmes (1973, 1977 and 1983) addressed matters such as the exchange of information among Member States and between Member States and the Commission, as well as coordination of research, monitoring and documentation systems. The CORINE programme (Experimental Project for Gathering, Coordinating and Ensuring the Consistency of Information on the State of the Environment and Natural Resources in the Community) also operates in this sphere.

Many EU instruments contain provisions relevant to public information on environmental matters. For example, the EIA Directive (85/337) requires Member States to grant access to information on applications for approval of listed projects. Under the 'Seveso' Directive (82/501), persons who may be affected by an accident in a plant as defined by the Directive must be provided access to information which the plant operator must furnish to the authorities. Directive 89/618/EURATOM requires that the public be informed about health protection measures in the event of a nuclear emergency; similar provisions are found in Directive 90/219 on the Contained Use of Genetically Modified Organisms. A further example is the 'Eco-Audit' Regulation (880/92), which requires preparation of summary audit statements for the public.

Work on a specific EU instrument on public access to environmental information began in 1985, when a draft resolution was introduced by members of the European Parliament. This was taken up by the 4th Environmental Action Programme of 1987, which postulated the need for "a Community law on the freedom of access to information on the environment". The resultant instrument, Di-

rective 90/313/EEC on the Freedom of Access to Environmental Information, was adopted unanimously by the Council on 7 June 1990. It requires Member States to grant any natural or legal person the right of access to information on the environment which is held by governmental or equivalent authorities. The right is limited by various exemptions and protected by a right to review. The Directive also requires Member States to actively provide information on the state of the environment, and to report on experiences gained.

Transposal of the Directive into national law has been late and/or incomplete in several cases. All Member States have meanwhile notified transposal measures, but conformity problems remain. The Commission has received many complaints from citizens and NGOs; infringement proceedings under Art. 169 EEC Treaty have been initiated against Germany, France and the Netherlands. In the latter instance,

Commission action has been successful; new legislation has been laid before Parliament, though not yet adopted.

A review of the Directive, which was to begin in 1997, is pending. This is partly due to late reporting by the Member States (all have now submitted reports except Portugal, against which infringement proceedings have begun). The other reason is that the EU intends to sign the UN-ECE Convention to be adopted at Aarhus. This may require changes in EU law, *inter alia* in Directive 90/313. For example, the scope of information covered is wider than under the Directive, the time limit for responses is shorter, there are concrete duties to collect and publish information e.g. in emission inventories, and a public interest clause is introduced, i.e. a requirement to balance the interest in confidentiality against that in disclosure.

— TWA

The ECJ and Access to Information Held by EU Bodies

EU Member States were required to make environmental information publicly available (Directive 90/313/EEC) before the EU was willing to put its own institutions under such an obligation. However, several Community measures have since been adopted to correct this situation. A Code of Conduct Concerning Public Access to Council and Commission Documents, relevant Rules of Procedure, and Decision 93/731 on Public Access to Council Documents were adopted in 1993. Decision 94/90 extended this to Commission documents, and Decision 97/282 to documents held by the European Environment Agency. The Code of Conduct sets out to grant the public "the widest possible access to documents", but Art. 5 of the Rules of Procedure and Decision 93/731 subject this principle to various exceptions.

The European Court of Justice (ECJ) has examined the Community's principles on access to information on several occasions. Case T-194/942 (1995) dealt chiefly with a refusal by the Council to disclose information on grounds of Art. 4(2) of Decision 93/731, by which "[a]ccess to a Council document may be refused in order to protect the confidentiality of the Council's proceedings". The Council had denied access to certain documents "since they refer directly to the deliberations of the Council and its preparatory instances". The Court held that this "automatic" rejection showed that the Council had neglected to exercise discretion, that it had been obliged to balance the interests of the applicant against any concrete need for secrecy.

continued next page ...

Central and Eastern Europe: Networking for Stronger Public Participation

There is a growing number of public interest environmental lawyers in Central and Eastern Europe whose daily business is connected to public participation, access to information, and access to justice. The legislation in most countries in the region already contains certain rights and legal tools for citizens wishing to protect their health and the environment around them. These rights and tools are inadequate in most cases, but they provide a starting point for creative advocates and activists.

The avenues for public participation being used in the region most often concern the environmental impact assessment process, the licensing process, and citizens going to court to enforce the law. The Environmental Law Institute's Environmental Program for Central and Eastern Europe has been cooperating with environmental law colleagues in the region on these issues for nine years on building domestic capacity for public participation. We have also stressed the importance of regional and international networking to support each other through, for example, the En-

vironmental Law Alliance Worldwide. At ELI, we have seen that as environmental organizations gain in expertise for participating in the governmental decision-making process, access for citizens is growing in certain countries. For example, in the Czech Republic, after a first citizen lawsuit was won enforcing the public participation provisions of environmental impact assessment, the government has begun to take the public participation provisions more seriously. In other countries, however, it is still an uphill battle for citizens to effectively participate in governmental decision-making. This is due to a complex host of factors, including: (1) lack of clear procedures for access to information; (2) lack of clear environmental standards; (3) lack of clear standing criteria for citizens going to court to enforce environmental law; and (4) lack of political will to make public participation a real part of government decision-making.

To ensure exchange of information and expertise throughout the region, the Central and Eastern European network of public interest environmental lawyers has been meeting on

an annual basis to discuss the day to day challenges of ensuring citizen access to environmental decision-making. The next meeting of the network will take place directly prior to the June 1998 European environment ministers' meeting. The fourth annual conference of Central and Eastern European environmental advocates will take place in Wroclaw, Poland and be hosted by the Polish Environmental Law Association. Given the timing of the meeting, discussions will also focus in part on the upcoming Environment for Europe Conference in Aarhus and on implementation of the Convention on Access to Environmental Information and Public Participation in Environmental Decision-making and Access to Justice in Environmental Matters, which is expected to be signed by governments in June.

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... ECJ

Case T-105/95 (1997) concerned a Commission rejection of an application for access to documents on a planning project in Ireland funded, in part, through EC structural funds. The court quashed the Commission's rather surprising contention that the Code of Conduct and Decision 94/90 do not confer legal rights upon citizens, and reiterated the above principle that where there is room for discretion, a genuine balance of interests must be struck; exceptions to the principle of publicity must be strictly construed.

It must be doubted whether this rule can effectively preclude abuse of the exceptions. The Commission and other EU bodies may well be able to resort to "formalistic" statements

such as "having considered the respective interests, the Commission believes that the balance between those interests requires non-disclosure". It is unlikely that the ECJ will be willing to investigate the underlying decision-making process in each contested case. Moreover, a public interest test should not be seen as a cure-all: an applicant is not required to substantiate an interest to exercise the right of access. If the interest aspect is introduced through the back door, large "campaigning" NGOs may find it easier to obtain information than private persons. This appears out of line with the principle of an "any person" right.

In Case T-105/95, the ECJ largely upheld the Commission's position that during infringement proceedings against Member States under Art.

169 EEC Treaty, (non-transposal/faulty transposal of directives), confidentiality may be required to safeguard the "frank and open dialogue" between the Commission and Member States. This is unfortunate, because it implies that the Commission is open to horse trading with a Member State and may ease up on enforcement if it can gain that State's support in another area. The Commission has often asserted that it considers public participation essential in ensuring Member State compliance, and indeed it is often citizens' complaints that bring infringements to the Commission's attention. For this reason there seems little justification for leaving the public in the dark once the Commission has decided to pursue enforcement through infringement proceedings.

— TWA

PUBLIC PARTICIPATION IN ENVIRONMENTAL DECISION-MAKING IN PERU

Introduction

Including and implementing public participation mechanisms is relatively new to Peruvian environmental legislation. The trend has been to incorporate such mechanisms into existing legislation without any systematic approach.

Peru has a legal framework that considers public participation in the environmental field, including policy-making and legislative drafting. This framework includes the right of access to information and of participation. Specific procedures have been established to facilitate participation. These procedures differ from one norm to another; some are permanent, others periodic. Permanent mechanisms are institutional bodies, e.g. Council Boards, which provide opportunities for public participation through representatives. Periodic mechanisms are aimed at public participation with a specific goal, e.g. the election of representatives to institutional bodies, or the right to make representations in relation to a particular topic. The division is not strict, because both tools interact in the public decision-making process.

Legal framework for public participation in Peru

Peruvian environmental legislation related to public participation is based on the 1993 Constitutional Charter (Art. 2 nos. 5 and 17 and Art. 31) and Law No. 26300 (Law on the Rights of Public Participation and Control). The latter establishes a procedure for legislative initiatives by the public (Arts. 8 and 11 through 15), including the presentation of drafts to the electoral authorities (provided a minimum number of signatures), and a procedure for passing such drafts in the Parliament of the Republic.

These public participation mechanisms are of a strictly formal nature and subject to specific procedures before competent authorities. The

Peruvian Constitution recognizes the right of access to information held by public authorities, the right to participate in the political, economic, social and cultural life of the Nation, and the right to participate in public affairs through legislative initiatives. The right to participate implies the existence of a right to information, which can ensure the necessary public awareness of the policy and law-making process. Authorities are obliged to inform the public in response to requests; the right of access is limited only by the exceptions specifically mentioned in the Constitution (personal confidentiality, confidentiality as specified by law, and national security).

Legislative Decree 613 (Environment and Natural Resources Code) includes among its articles (Main Title, Art. VI), the right of every person to participate in policy formulation and implementation of national, regional and local measures for the environment and natural resources. It also establishes the right of citizens to be informed of measures or activities which could affect, directly or indirectly, the health of persons, or the integrity of the environment and natural resources.

Public participation provisions have been included in some new legislation. For example, Art. 5 of Law No. 26821 (Organic Law on the Sustainable Use of Natural Resources) establishes the right of citizens to be informed and to participate in the definition and implementation of policies related to natural resources conservation and sustainable use. It recognizes the right to formulate petitions and to bring collective or individual actions before competent authorities. The article includes the right to information and of participation, framing them within the context of the Constitutional Charter and the Environment Code, but it lacks criteria for defining such participation for the norms related to natural resources, e.g. the Forests Law or the Water Resources Law.

Participation in the administrative decision-making process

The highest Peruvian authority on environmental matters is the National Council for the Environment, created by Law No. 26410, which provides public participation mechanisms within the decision-making process (Art. 4g, Art. 6d and e, and Art. 13). Among the functions of the Council, the Law lists the promotion of public participation at all levels. Also, the Council Board includes representatives of the public, namely from the primary (raw material producers) and secondary (industrial) commercial sectors. The appointment procedure is subject to the rules of the bodies which represent these sectors. The definition of representation is restrictive in that other groups, e.g. non-governmental or community-based organizations, are not included.

Law No. 26793 (Law on the Creation of the National Fund for the Environment) provides for representatives of non-governmental and business organizations and academics to sit on the Council Board of the Fund (Art. 4). It also establishes the procedure for their appointment (Third and Fourth Final Dispositions).

Although there are different criteria for public participation in the administrative decision-making process, advances in the field have been positive, especially due to the growth of experience in participation among public interest organizations, and of experience with co-ordination and mediation at the governmental level.

Participation in administrative procedures

Public participation at this level has been weak and only implemented at the environmental impact assessment level, with extremely restrictive measures which do not permit or facilitate the participation of the poorer sectors of the population through their representatives. The mechanisms vary from one economic sec-

tor to another, and they are hampered by the allegation of other rights (e.g. commercial confidentiality), delayed responses to requests for information and high charges. The general administrative mechanism has been little used due to its complicated and time-consuming procedure, which is difficult for lay citizens to understand.

Participation in court proceedings

The Environment Code was the first norm that recognised the right of non-governmental organizations to bring actions in the courts on behalf of the environment. From there, Court experience in the matter has increased both in number and in jurisprudential development. The interest of citizens to seek remedies to environmental problems before the courts has grown. It is a gradual process that has developed thanks to the efforts of environmental NGOs.

The level of expertise and interest on the part of judges in these cases has also increased. At the same time,

jurisprudence in the matter has influenced laws and regulations, especially those related to conflicts between commercial activities and the environment. The issue has become a serious one in view of the important decisions taken to promote environmental conservation in Peru.

Preliminary conclusions

Peruvian legislation related to public participation in environmental decision-making still reflects a vertical State-public approach. In the case of the National Fund for the Environment, there are greater possibilities, but still no guarantee of an opportunity of expression to all social groups with an interest in environmental matters, especially community-based organisations.

The mechanisms of public participation considered include the right to access information and the right to participate, and demonstrate an attempt to find a balance between these concepts. But the provisions are general, lacking clear and bind-

ing criteria for the development of procedures in future legislation.

Moreover, mechanisms are provided in piecemeal fashion, varying from one norm to another. There is no general unified framework covering the procedures in the norms considered. Major efforts are necessary to systematize the existing legislation so as to make effective application possible. It is, however, evident that there is no need for new laws, but rather a need to apply the existing ones.

The situation is one of gradual progress in the field. One may hope that future developments will lead to wider inclusion of the less favoured sectors of the population, those most affected by environmental problems in Peru.

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The Right of Access to Environmental Information: South Africa

Until 1994, South Africa had no right of freedom of access to information (including information relating to the environment). A general access right is now included in section 32 of the 1996 Constitution, which states that everyone has access to information held by the State or another person if this is required to exercise or protect a fundamental right. However, national legislation must still be enacted to give effect to this right and to alleviate unreasonable administrative and financial burdens on the State.

In section 24, the Constitution of the Republic of South Africa further provides a right to an environment which is not harmful to public health and well-being. The environment is to be protected, for the benefit of present and future generations, through appropriate legislative and other measures to prevent pollution and ecologi-

cal degradation, promote conservation and secure ecologically sustainable development and use of natural resources, while promoting justified economic and social development.

There is no obligation on the State to actively disseminate environmental information. Private institutions are in some instances obliged to provide information to the State, *inter alia* on water and air quality under the Water Act and the Atmospheric Pollution Prevention Act. However, this information does not need to be made available for public scrutiny by way of environmental registers, as is the case in the USA and some European countries. The only way to obtain such information is to make use of the constitutional right.

This right was concretised in the draft Open Democracy Bill, which was published for comment on 18 Octo-

ber 1997. Clause 9(1) provides that heads of government departments are obliged to disclose documents in their possession if the information reveals a severe threat to the environment or public safety. Disclosure should be in the public interest. If the record contains information obtained from third parties or contains confidential commercial information, the relevant person or institution must first be informed of the intent to disclose. He or she may then lodge a complaint either through administrative channels or with the High Court.

The Bill does not provide for a general right of access to information held by private institutions: the right can only be enforced against the State. The Constitution, however, provides that such a right may be enforced against other persons in

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CALENDAR C

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Info needed:

The Chair and the ELC would be pleased to hear from CEL members who plan to attend or participate in any of the following meetings.

1-3 May	Bratislava Slovakia	Global Biodiversity Forum Contact: Caroline Martinet, IUCN-The World Conservation Union, 28 Rue Mauverney, CH-1196 Gland, Switzerland; tel: (41 22) 999 0001; fax: (41 22) 999 0025; e-mail: ccm@hq.iucn.org
4-15 May	Bratislava Slovakia	4th Conference of the Parties to the Convention on Biological Diversity Contact: CBD Secretariat, World Trade Centre, 393 St. Jacques Street, Office 300, Montreal, Quebec, Canada H2Y 1N9, tel: (1-514) 288 2220; fax: 2886588; email: chm@biodiv.org
16 May	Geneva	Multilateral Treaty-Making: The Current Status of Challenges to and Reforms Needed in the International Legislative Process, A Joint Meeting of the American Society of International Law, Washington, DC and the Graduate Institute of International Studies, Geneva Contact: The American Society of International Law, 2223 Massachusetts Avenue, NW, Washington, DC 20008-2864, USA; fax: (1 202) 797 7133
16-28 May	Nairobi, Kenya	Special Session of UNEP Governing Council Contact: B. Miller, UNEP; tel: (254 2) 62 34 11; fax: (254 2) 62 37 48; e-mail: millerb@unep.org
18-22 May	New York	8th Meeting of States Parties to the United Nations Convention on the Law of the Sea (UNCLOS) Contact: e-mail: doalos@un.org; Internet: http://www.un.org/Depts/los
May-June (tentative)	Germany	International Expert Consultation on Operationalization for the IPF's Proposals for Action at the National Level Contact: Christian Mersmann, GTZ Coordinator, International Programmes in Tropical Forestry; tel: (49 6196) 79 34 53; fax: (49 6196) 79 73 33; e-mail: 101562.31@compuserve.com
2-3 June	Lisbon, Portugal	3rd Ministerial Conference of the Protection of Forest in Europe Contact: Mr. Luis Costa Leal, e-mail: luiscostaleal@mail.telepac.pt
2-12 June	Bonn, Germany	Meeting of the United Nations Framework Convention on Climate Change subsidiary bodies Contact: UNFCCC Secretariat, Bonn, Germany; tel: (29 228) 815 1000; fax: (49 228) 815 1999; e-mail: secretariat@unfccc.de; Internet: http://www.gefweb.org
10-12 June	Washington, D.C.	International Conference on Addressing Environmental Consequences of War Contact: Carl Bruch, Environmental Law Institute, tel: (1 202) 939 3240; fax: (1 202) 939 3868; e-mail: bruch@eli.org
23-25 June	Aarhus, Denmark	Environment for Europe, 4th Pan-European Conference of Environment Ministers Contact: Danish Environmental Agency, Strandgade 29, 1401 København K, Denmark; fax: (45) 3266 0296; Internet: www.mst.dk/aarhus-conference
29 June- 3 July	Montreal, Canada	1st Session of the Persistent Organic Pollutants (POPs) Intergovernmental Negotiating Committee (INC-1) Contact: UNEP Chemicals (IRPTC); tel: (41 22) 979 9190; fax: (41 22) 797 3460; e-mail: dogden@unep.ch; Internet: http://irptc.unep.ch/pops/
1-3 July	Bonn, Germany	2nd Meeting of the Parties to the European Bat Agreement under the Convention on Migratory Species Contact: CMS Secretariat, Martin-Luther-King-Str. 8, 53175 Bonn; tel: (49 228) 815 2401; fax: (49 228) 815 2449; e-mail: cms@unep.de
6-10 July	Geneva	17th Meeting of the Open-ended Working Group of Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer Contact: Mr. K. Madhava Sarma, Coordinator, Ozone Secretariat, UNEP, Nairobi; tel: (254 2) 62 3851; fax: (254 2) 521930; e-mail: ozoninfo@unep.org
July	Montreal, Canada	<i>Ad Hoc</i> Working Group on Biosafety of the Convention on Biological Diversity Contact: CBD Secretariat, World Trade Centre, 393 St. Jacques Street; Office 300, Montreal, Quebec, Canada H2Y 1N9; tel: (1 514) 288 2220; fax: (1 512) 288 6588; e-mail: chm@biodiv.org
24 Aug - 4 Sept	Geneva	2nd Session of the Intergovernmental Forum on Forests Contact: IFF Secretariat, Two UN Plaza, 12th Floor, New York, NY 10017, USA; tel: (1 212) 963 6208; fax: (1 212) 963 3463; Internet: http://www.un.org/dps_cd/dsd/iff.htm

OF MEETINGS

May 1998

Info needed:
Please inform us of important meetings on environmental law and policy that are not reflected in this list.

- | | | |
|--------------------|-------------------------------|---|
| 24 Aug -
4 Sept | Dakar,
Senegal | 2nd Conference of the Parties to the Convention to Combat Desertification (CCD)
Contact: CCD Secretariat, tel: (44 22) 979 9419; fax: (44 22) 979 9030/31;
e-mail: secretariat@unccd.ch; Internet: http://www.unccd.ch |
| 29-31 Aug | Montreal
Canada | Global Biodiversity Forum
Contact: The Land and Agriculture Policy Centre; tel: (27 11) 403 7272; fax: (202) 638 0036;
email: celias@wri.org |
| Sept | Rotterdam,
The Netherlands | Diplomatic Conference for the Adoption of an International Legally Binding Instrument for the Application of the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade
Contact: UNEP Chemicals (IRPTC), tel: (41 22) 979 9111; fax: (41 22) 797 3460;
e-mail: jwillis@unep.ch ; Internet: http://irptc.unep.ch/pic/ |
| 3 Nov | Fontainebleau,
France | IUCN 50th Anniversary
Contact: IUCN Headquarters, Rue Mauverney 28, CH-1196 Gland; tel: (41 22) 999 0001;
fax: (41 22) 999 0002 |
| 2-13 Nov | Buenos Aires,
Argentina | 4th Conference of the Parties to the UN Convention on Climate Change and Subsidiary Bodies
Contact: Secretariat, Martin-Luther-King-Str. 8, 53175 Bonn; tel: (49 228) 815 1000;
fax: (49 228) 815 1999; e-mail: secretariat@unfccc.de |
| 9-14 Nov | Dakar,
Senegal | International Wetlands Conference
Contact: Wetlands International, Marijkeweg 11, PO Box 7002, Wageningen 7600 CA,
The Netherlands; tel: (31 317) 474711; fax: (31 317) 474712; e-mail: post@wetlands.agro.nl |
| 17-27 Nov | Cairo,
Egypt | 10th Meeting of the Parties to the Montreal Protocol
Contact: the Secretariat for the Vienna Convention and the Montreal Protocol in Nairobi,
Kenya; tel: (254 2) 62 1234 or (254 2) 62 3581; fax: (254 2) 52 1930 or (254 2) 62 3913;
Internet: http://www.unep.ch/ozone |
| Nov | Montreal,
Canada | Intergovernmental Negotiating Committee on Persistent Organic Pollutants
Contact: Jim Willis, UNEP-IRPTC, tel: (41 22) 979 9111; fax: (41 22) 797 3460;
e-mail: irptc@unep.ch |

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|-------------------------|-------------------------|---|
| 7-12 Feb
(tentative) | Geneva | 2nd Session of the Persistent Organic Pollutants (POPs) Intergovernmental Negotiating Committee (INC-1)
Contact: UNEP Chemicals (IRPTC); tel: (41 22) 979 9190; fax: (41 22) 797 3460;
e-mail: dogden@unep.ch ; Internet: http://irptc.unep.ch/pops/ |
| Feb-March | Geneva | 3rd Session of the Intergovernmental Forum on Forests
Contact: IFF Secretariat, Two UN Plaza, 12th Floor, New York, NY 10017, USA;
tel: (1 212) 963 6208; fax: (1 212) 963 3463; Internet: http://www.un.org/dpscd/dsd/iff.htm |
| April | Rome,
Italy | 8th Session of the Commission on Genetic Resources for Food and Agriculture
Contact: FAO, Viale delle Terme di Caracalla, 00100 Rome, Italy; tel: (39 6) 52251;
Internet: http://www.fao.org or http://web.icppgr.fao.org |
| 10-18 May | San José,
Costa Rica | 7th Meeting of the Conference of the Parties to the Ramsar Convention
Contact: Ramsar Convention, Rue Mauverney 28, CH-1196 Gland, Switzerland;
tel: (41 22) 999 0170; fax: (41 22) 999 0169; e-mail: ramsar@hq.iucn.org |
| 17-28 May | Nairobi,
Kenya | 20th UNEP Governing Council Session
Contact: B. Miller, UNEP; tel: (254 2) 62 34 11; fax: (254 2) 62 37 48; e-mail: millerb@unep.org |
| 20-28 May | Libreville,
Gabon | 24th Session of the International Tropical Timber Organization
Contact: ITTO Secretariat, Yokohama, Japan; tel: (81 45) 223 1110; fax: (81 45) 223 1111;
e-mail: itto@mail.ittounet.ocn.ne.jp ; Internet: http://www.itto.or.jp/ |
| 13-18 June | Jerusalem,
Israel | 7th International Conference of the Israel Society for Ecology and Environmental Quality Sciences on Environmental Challenges for the Next Millennium
Contact: Conference Secretariat, P.O. Box 50006, Tel Aviv 61500, Israel;
tel: (972 3) 514 0000; fax: (972 3) 514 0077 or (972 3) 517 5674;
e-mail: ecology99@kenes.com ; Internet: www.kenes.com/ecology99 |

***Locus Standi* in Environmental Matters - The Indian Scenario**

The common law traditions of India and the quest for restitution of its environment are often reflected in the pronouncements of its courts. By invoking its powers under Art. 32 of the Constitution to protect the fundamental rights of the people, the Supreme Court has granted relief both to individuals and environmental organisations. Disregarding traditional concepts of *locus standi*, the court has entertained a new genus of litigation, viz. public interest litigation (PIL), to protect fundamental rights. The Court has proceeded on the premise that a clean and wholesome environment is a prerequisite for enjoyment of the right to life as enshrined in the Indian Constitution.

A series of PIL cases brought by a public-spirited lawyer, M.C. Mehta, have set important precedents. In *Mehta v. Union of India*, the Supreme Court ordered tanneries operating without approved pre-treatment plants to stop discharges of effluents. In another Mehta case (*Oleum Gas Leak*), the court held that the exceptions to the rule in *Rylands v. Fletcher*, such as natural use of land, do not apply where industry engages in inherently hazardous activities. In yet another of the Mehta series, the issue was whether a petitioner who was not a riparian owner could be granted standing to move against nuisance by river pollution. The court held that it is reasonable for any person to take up proceedings on behalf of the community at large.

In the recent PIL *Indian Council for Enviro-Legal Action v. Union of India*, the Supreme Court focused attention on harm caused to villagers by sludge deposited by closed-down chemical industries. Viewing the case as "social action litigation", the court ordered that remedial action be taken and compensation be given in line with the "Mehta absolute liability principle".

Indian environmental NGOs had a most rewarding moment on 12 February 1997, when the Supreme Court directed the Federal Ministry for Environment and Forests to take all necessary steps by 1 April to implement laws banning the use and dumping of hazardous and noxious substances by industrial units. In its order on a PIL by an NGO, the Supreme Court warned the Ministry that if chief officers did not measure up to their duty to enforce the Environment (Protection) Act 1986, the court would record a "judicial finding of failure to perform their duties", and would ensure that this was recorded in their service records.

The High Courts of the States have taken their cue from the pro-active judgements of the Supreme Court. In *T. Damodhar Rao*, the High Court of Andhra Pradesh observed that:

"There can be no reason why practice of violent extinguishment of life alone should be regarded as violative of Art. 21 of the Constitution. The slow poisoning ... by environmental pollution and spoliation should also be regarded as violation of Art. 21."

In *L.K. Koolwal v. State of Rajasthan*, the High Court held that Art. 51A of the Constitution requires citizens to maintain a clean environment, and at the same time a right to move the court to ensure that the state performs its duties.

In *Attakoya Thangal v. Union of India*, the High Court held that:

"The right to life is much more than the right to animal existence and its attributes are manifold, as life itself... The right to sweetwater and the right to free air are attributes of the right to life."

Traditionalists may raise an eyebrow at the propriety of this new breed of

litigation and judicial activism in India, but the scenario of environmental litigation in India is all the more vibrant due to the recognition of *locus standi* in PIL. Traditional rules of standing fade away as a liberal judiciary employs the technique of constitutionally underpinning the requirement to ensure a wholesome environment. However, Indian PILs often relate to individual instances of public grievance, meaning that orders passed by the courts may be useful only in those particular cases. Therefore, critics may feel that the *ad hoc* approach of the Supreme Court is not a useful remedy for widespread environmental problems.

However, the need for PIL was felt by the Supreme Court in view of the many people who, due to poverty, illiteracy and remoteness from the seats of power, silently suffer injustice in matters relating to fundamental rights guaranteed by the Constitution. Hence the Court, as a matter of judicial policy, began to accept petitions filed by public-minded individuals and organisations seeking relief for problems of public interest, including environmental deterioration. The court allows only bona fide public-interest individuals and organisations to approach it in pursuit of matters of public interest, especially those concerning disadvantaged persons. Verdicts often come in the form of directives to executive agencies to cure the maladies. Thus, the court does not lay down new law or policy, but compels an unwilling executive to discharge its duties according to the spirit of the law.

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Environmental Implications of the OECD MAI

The emerging debate over the Multilateral Agreement on Investments (the MAI) carries forward a debate that began with NAFTA and continued with the WTO and "fast track". Many of the same problems are posed and could be compounded. Indeed, the WTO's head calls it "the constitution for a single, global economy".

In seeking to protect foreign investment from discrimination and facilitate the free flow of capital around the globe, the agreement would exalt business interests above all competing social concerns. And it would do so through processes that are less transparent and more remote from democratic accountability. The agreement assumes that development is desirable everywhere. But from an environmental viewpoint, that is hardly the case.

Globalization is not proving to be an environmentally benign phenomenon. Nature is already hard-pressed, and more development will press it harder. Some will argue that greater prosperity will result in greater efforts to control pollution. But there will also be more pollution to control. And the pressure of global competition and cost-cutting will inexorably press advanced countries to reduce outlays for environmental protection and for social safety nets.

Specific concerns arise from the likely impact of the MAI on the powers of governments to regulate to protect the environment, and the threat that the MAI will override environmental programs at the international level.

- The MAI's provisions on expropriation would in effect enshrine the doctrine of "regulatory taking". Compensation would also have to be given for property taken indirectly, or anything "having equivalent effect". If the MAI becomes law, many regulations governing toxics could be endan-

gered by claims that the value of investments putting them into the environment would be curtailed.

- The MAI could also be used to challenge limitations on the use of natural resources, such as land use controls to protect aquifers. Some developing countries require that raw timber be (pre-)processed in-country before they can be exported. This helps protect forests by providing more domestic jobs per tree cut. Such laws would also be disallowed by the MAI.
- Government procurement decisions in favor of "green" products, as well as tax incentives encouraging recycling or investments in environmental technology, could run afoul of the MAI.
- The NAFTA clarifies that conflicting provisions of international environmental treaties are not overridden. The MAI does not do so, which could spell trouble e.g. for the Mon-

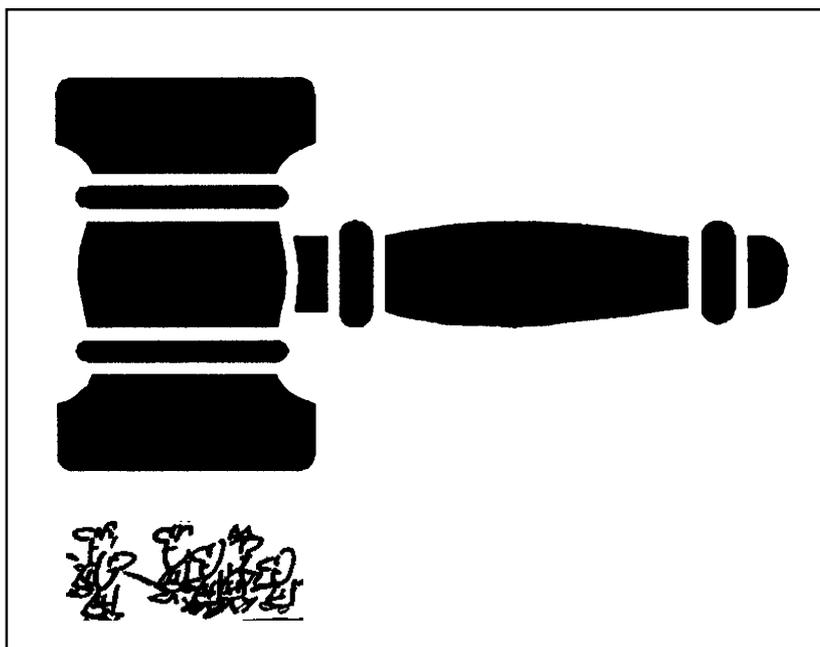
treational Protocol or CITES. Nor would the MAI countenance "green" or socially motivated guidelines for assistance by international lending institutions such as the World Bank.

- The MAI establishes special arbitral panels to hear complaints by investors. Other affected parties, such as environmentalists, have no right to intervene, and environmental expertise must not be sought. Domestic agencies could be sued by corporations from around the world.

The MAI would take away the power of sovereign nations to balance competing economic and social interests. Fundamental imbalances would be imbedded in international law. This should never happen.

[abstract from a presentation to an MAI Conference in Dallas, Texas (17 January 1998)]

— Michael McCloskey,
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... from page 7

order to protect any of the fundamental rights, including those under section 24. A number of broad exemptions are contained in the Bill; they deal, *inter alia*, with mandatory protection of third-party commercial information and records supplied in confidence.

The Bill ensures the protection of whistleblowers, precluding their liability, *inter alia*, where negligent administration results in, or is likely to result in, a substantial threat to the health and safety of an individual or the general public. Information may also be disclosed where the public interest clearly outweighs the need for confidentiality. The Bill does not protect whistleblowers in private institutions (e.g. mines, oil refineries, waste disposal companies etc.).

South Africa is on the way to a right of access to environmental information. The light is there, but pressure from private institutions in favour of confidentiality and the development needs of the country may hamper its introduction.

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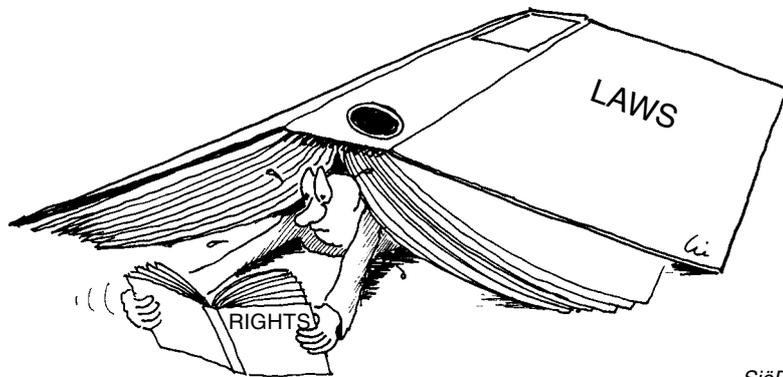
ESCAP

The United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) has recently initiated a project on the development of energy conservation legislation in the region. This is in recognition of the enormous adverse environmental impacts resulting from the rapid escalation of energy demand (which has reached 13 per cent per annum in some countries) and the corresponding increase of power plants operating on fossil fuels. The majority of countries have no legislation regulating and giving incentives to energy efficiency along the lines currently in operation in the United States and some other industrialised nations.

The ESCAP is in the process of preparing a two-volume publication entitled "Compendium on Energy Conservation Legislation in Countries of the Asia and the Pacific Region." Volume 1 will consist of an overview of energy conservation laws, to be written by the ESCAP Secretariat, while volume 2 consists of a series

of commissioned issue and country papers on energy conservation legislation in various sectors and countries. The present writer is contributing an issues paper on regulatory mechanisms for encouraging fuel efficiency in the road transport paper, together with the country paper for Australia. Other issue papers are being prepared on regulatory mechanisms for the enhancement of energy efficiency in the manufacturing industry, regulatory mechanisms for the establishment of efficiency standards in the buildings sector and in respect of domestic appliances, and the creation of energy labelling programmes. Publication is due in May 1998. The ESCAP organised a special meeting of all participants of the project in Hanoi, Viet Nam, in March 1998.

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SiöD 6/96

Antarctica: An Important New Agreement Enters into Force

The Protocol on Environmental Protection to the Antarctic Treaty entered into force on 14 January of this year, thirty days after it was ratified by the last Antarctic Treaty Consultative Party, Japan.

The Protocol designates Antarctica as a natural reserve, devoted to peace and science. It sets forth basic principles as well as detailed, mandatory rules applicable to human

activities in Antarctica. The Protocol prohibits all activities relating to mineral resources other than for scientific research. It requires Parties to conduct environmental impact assessments for proposed activities, whether governmental or private. It also obliges Parties to protect Antarctic fauna and flora and imposes strict limitations on waste disposal and discharges of pollutants. In addition, Parties must provide for

prompt and effective response to environmental emergencies, *inter alia* through the development of joint contingency plans. The Protocol further incorporates compliance provisions, including compulsory and binding dispute settlement procedures.

— based on a statement
by James B. Foley,
Deputy Spokesman,
U.S. Department of State

IUCN-Database No. 800000/V-991100400

Protocol to the Antarctic Treaty on Environmental Protection

Protocole au Traité de l'Antarctique concernant la protection de l'environnement

Protokoll zum Antarktis-Vertrag über Umweltschutz

Date of adoption	Place of adoption	Date of entry into force
Date de l'adoption	Lieu de l'adoption	Date de l'entrée en vigueur
Datum der Annahme	Ort der Annahme	Datum des Inkrafttretens
04.10.1991	Madrid	14.01.1998
Language	Translation	Depositary
Langues	Traduction	Dépositaire
Sprachen	Übersetzung	Verwahrer
English	German	United States
French		
Russian		
Spanish		

Reference BGBI 1994 II 2479;

Related Enabl./Implemt. texts: 800000/U-959120100/;

State Etat Staat	Signature Signature Unterzeichnung	Instrument/Deposit Instrument/dépôt Instr./Hinterlegung	Reservation Réserve Vorbehalt	Entry into force Entrée en vigueur Inkrafttreten	Termination Expiration Außerkräfttreten
Argentina	04.10.1991	R/ 28.10.1993		14.01.1998	
Australia	04.10.1991	R/ 06.04.1994		14.01.1998	
Austria	04.10.1991				
Belgium	04.10.1991	R/ 26.04.1996		14.01.1998	
Brazil	04.10.1991	R/ 15.08.1995		14.01.1998	
Canada	04.10.1991				
Chile	04.10.1991	R/ 11.01.1995		14.01.1998	
China	04.10.1991	R/ 02.08.1994		14.01.1998	
Colombia	04.10.1991				
Czech Republic	01.01.1993				
Democratic People's Rep. of Korea	04.10.1991				
Denmark	02.07.1992				
Ecuador	04.10.1991	R/ 04.01.1993		14.01.1998	
Finland	04.10.1991			14.01.1998	
France	04.10.1991	R/ 05.02.1993		14.01.1998	
Germany	04.10.1991	R/ 25.11.1994		14.01.1998	
Greece	04.10.1991	R/ 23.05.1995			
Hungary	04.10.1991				
India	02.07.1992	R/ 26.04.1996		14.01.1998	
Italy	04.10.1991	R/ 31.03.1995		14.01.1998	
Japan	29.09.1992	R/ 15.12.1997		14.01.1998	
Netherlands	04.10.1991	R/ 14.04.1994		14.01.1998	
New Zealand	04.10.1991	R/ 22.12.1994		14.01.1998	
Norway	04.10.1991	R/ 16.06.1993		14.01.1998	
Peru	04.10.1991	R/ 08.03.1993		14.01.1998	
Poland	04.10.1991	R/ 01.11.1995		14.01.1998	
Republic of Korea	02.07.1992	R/ 02.01.1996		14.01.1998	
Romania	04.10.1991				
Russian Federation	04.10.1991			14.01.1998	
Slovakia	01.01.1993				
South Africa	04.10.1991	R/ 03.08.1995		14.01.1998	
Spain	04.10.1991	R/ 01.07.1992		14.01.1998	
Sweden	04.10.1991	R/ 30.03.1994		14.01.1998	
Switzerland	04.10.1991				
United Kingdom	04.10.1991	R/ 25.04.1995		14.01.1998	
United States	04.10.1991			14.01.1998	
Uruguay	04.10.1991	R/ 11.01.1995		14.01.1998	

R = Ratification

A = Accession
Adhesion
Beitritt

B = Acceptance, Approval
Acceptation, Approbation
Annahme, Genehmigung

T = Succession
Succession
Nachfolge

Dates for Entry into Force for New Parties to Major Global Environmental Treaties

Ratification Status as of 9 March 1998

Convention Concerning the Protection of the World Cultural and Natural Heritage, 16.11.1972

South Africa - 10.10.1997
 Papua New Guinea - 28.10.1997
 Suriname - 23.01.1998

Total number of Parties: 152

Convention on International Trade in Endangered Species of Wild Fauna and Flora, 03.03.1973

no changes

Total number of Parties: 143

Convention on the Conservation of Migratory Species of Wild Animals, 23.06.1979

Liechtenstein - 01.11.1997

Total number of Parties: 52

United Nations Convention on the Law of the Sea, 10.12.1982

Portugal - 03.12.1997
 South Africa - 23.01.1998

Total number of Parties: 123

United Nations Framework Convention on Climate Change, 09.05.1992

Suriname - 14.01.1998
 Tajikistan - 07.04.1998
 Gabon - 21.04.1998
 Madedonia - 28.04.1998

Total number of Parties: 174

Convention on Biological Diversity, 05.06.1992

Namibia - 14.08.1997
 Tajikistan - 29.01.1998
 Liechtenstein - 19.02.1998

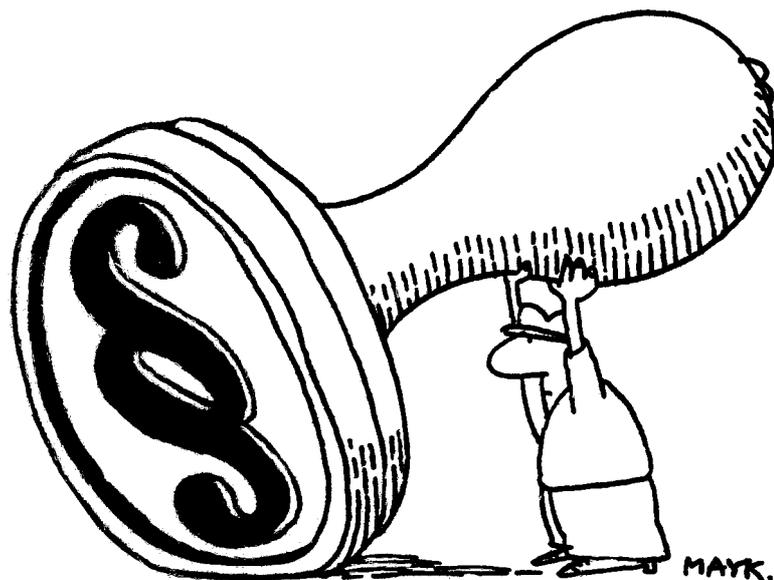
Total number of Parties: 172

International Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, particularly in Africa, 14.10.1994

Saudi Arabia - 23.09.1997
 Guyana - 24.09.1997
 Equatorial Guinea - 25.09.1997
 Ethiopia - 25.09.1997
 Kuwait - 25.09.1997
 Dominican Republic - 26.09.1997
 Seychelles - 26.09.1997

El Salvador - 26.09.1997
 Saint Kitts - 28.09.1997
 Angola - 30.09.1997
 Armenia - 30.09.1997
 Belgium - 30.09.1997
 Saint Lucia - 30.09.1997
 Nigeria - 06.10.1997
 Kazachstan - 09.10.1997
 Bahrein - 12.10.1997
 Tajikistan - 14.10.1997
 Ireland - 29.10.1997
 Cambodia - 18.11.1997
 Zaire - 12.12.1997
 Kyrgystan - 19.12.1997
 Zimbabwe - 23.12.1997
 Sierra Leone - 25.12.1997
 South Africa - 30.12.1997
 Chile - 11.02.1998
 Jamaica - 12.02.1998
 Costa Rica - 05.04.1998
 Malta - 01.05.1998
 Nicaragua - 17.05.1998

Total number of Parties: 119



Frankfurter Allgemeine Zeitung

Environmental Law Service

Africa

Sixty-five participants, including central government technical experts, local community authorities and representatives of the private sector, took part in a national workshop held in Ouagadougou, **Burkina Faso** 8-10 January to discuss eight draft decrees. The drafts were prepared by the team of three national lawyers working under the auspices of the UNEP-UNDP Joint Project on Environmental Law and Institutions in Africa. The drafts deal with: creation of the National Council for Environmental Administration; forest exploitation; using fire in rural areas; urban solid wastes, dangerous installations; wildlife; creation of economic interest areas; and fisheries commercialization. On the basis of the workshop recommendations, the drafts were revised and by March, seven of the eight were ready for presentation and adoption.

The workshop discussions also revealed conflicts among provisions of the mining code, the environment code, and the investment code. As a result of the workshop, drafts were prepared to revise the conflicting provisions. Three additional draft texts — on consolidation of environmental funds, harmonization of criminal sanctions, and village hunting zones — were to be completed by the end of March. Other texts are in preparation on EIA, land tenure, and public participation in resource management. A second workshop is scheduled for the end of April to discuss the second group of drafts.

The second of two training seminars planned under this project is scheduled for June. Proposed theme for the seminar is theoretical and practical issues arising from the Convention on Biological Diversity.

Initial drafting of the framework environmental law for **Ethiopia** continues and is scheduled to be completed by

the end of April. A national workshop will be held to discuss the draft before revising and finalizing it.

The Environmental Legislation Centre in **Guinea-Bissau** is in full operation. The Centre was established under the EU-funded project to support the development of environmental law in Guinea-Bissau. Centre staff are canvassing international organizations, NGOs, research institutions and governmental technical advisors to compile the material needed for a comprehensive analysis of legislation in force related to the environment and of the institutions that implement it. The materials will comprise the first elements of a national environmental law database. The Environmental Law Service Officer visited Guinea-Bissau at the end of March to discuss project implementation with Centre staff, the EU Delegation, and national authorities.

East Asia

The third and final of a series of environmental law seminars for the judiciary was held in Nepalgunj, **Nepal**, 10-12 January. Technical papers covered the following issues: the polluter pays principle; inter-generational equity and the precautionary principle; role of the judiciary in applying general principles of environmental law; status of EIA legislation; the Convention on Biological Diversity; implications of the right to information on environmental conservation in Nepal. Working groups discussed case studies on pollution prevention and control and on EIA.

Altogether, 92 judges from various courts took part in the three seminars. IUCN-Nepal will publish the proceedings of the program for use as resource materials by judges, government attorneys, administrators and law schools.

West Asia

Jordan hosted the IUCN Regional Conservation Forum in Amman, 10-14 February. The Forum brought together more than 150 IUCN members and partners from North Africa, West Asia and Central Asia to focus and plan for IUCN's efforts in each sub-region. Lawyers from four countries — Jordan, Lebanon, Morocco, and Yemen — along with interested non-lawyers took part in discussions over the course of two days about the appropriate direction for IUCN's environmental law activities in the region. The consensus was that the priority for the North Africa and West Asia sub-regions is training for lawyers and non-lawyers on environmental legal issues. Short courses were considered to be the most effective way to provide this training. Suggested issues for courses for lawyers include EIA, implementing international environmental agreements in national law, enforcement, and negotiation. It was also recommended to design courses for central and local government authorities to familiarize them with national environmental law. The report of the Forum will be available from IUCN Headquarters.

The first draft of the provincial wildlife law for **Pakistan** was completed in January. Among other things, the draft proposes the creation of conservancies to promote local community management of wildlife. Comments on the draft are being taken until the end of March, at which time the draft will be revised and finalized.

A team of three national lawyers completed the first draft of the legal component of the National Biodiversity Strategy and Action Plan for **Yemen**. After translation and revision the legal component will be incorporated into the Strategy and Action Plan and discussed at a national workshop tentatively scheduled for May or June.

— PFM

ELC Staff News

Richard Tarasofsky, Legal Officer, will move to Berlin at the end of April. Richard will remain a close associate of the ELC and in particular will continue leading its work on trade & environment, and forests.

Maria Garreta, Documentation Assistant, will leave the ELC in April. Tülin Emircan has joined the ELIS team as an Assistant Documentation Officer.

IUCN's Environmental Law Programme is carried out jointly by the Commission on Environmental Law (CEL) and the Environmental Law Centre (ELC), an outposted unit of IUCN headquarters located in Bonn, Germany. CEL is a network of more than 360 international and environmental law specialists in 95 countries. The ELC administers all Law Programme activities, develops and manages projects, and serves as the Secretariat for CEL.

The IUCN Environmental Law Programme's Newsletter welcomes

short articles and news items on international, regional, and national developments in environmental law. We are particularly interested in activities of IUCN members working in the field. Contributions should be no longer than 300-500 words and may be submitted in English, French or Spanish. All contributions will be edited. Please send material to: Newsletter Editor, IUCN Environmental Law Centre, Adenauerallee 214, 53113 Bonn, Germany; telephone (49-228) 2692-231; fax: (49-228) 2692-250; email: IUCN-ELC@wunsch.com.

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