



**The Convention on the
Conservation of Migratory Species
Twenty Years Later**



UNEP



CMS

On 23 June 1999, the *Convention on the Conservation of Migratory Species of Wild Animals* (CMS, also known as the Bonn Convention) celebrated the twentieth anniversary of its signing. The event was marked with an international gathering of circa 250 government representatives, diplomats, and conservationists in Bad Godesberg's *La Redoute*, just yards away from the venue where the negotiations over the Convention were concluded in 1979. Together with the *Convention on Biological Diversity*, the *Ramsar Convention*, the *World Heritage Convention* and the *Convention on International Trade in Endangered Species*, the Bonn Convention makes up a family of legal instruments aimed at the conservation and sustainable use of the world's natural heritage.

The Convention was originally conceived in a Recommendation of the United Nations Conference on the Human Environment, held in Stockholm in 1972. The German Government, in close collaboration with the

IUCN-Environmental Law Centre, took the lead in developing a proposal in consultation with many states, IGOs, and specialised NGOs. The next step was to organize a diplomatic conference in Bonn, at which the Convention was negotiated and eventually concluded. Fifty delegations signed the final Act, and on 23 June 1979, twenty-two delegations formally signed the Convention itself. The United Nations Environment Programme (UNEP) provides the staff of the Convention Secretariat, currently numbering thirteen. The Secretariat has been located in Bonn since 1984, most recently alongside other UN organisations in the *Haus Carstanjen* on the banks of the River Rhine.

Initially, the Convention developed slowly, which comes as no surprise given the way the Convention system works and the time needed to establish the international agreements through which the Convention is implemented (cf. Simon Lyster, *International Wildlife Law*, Grotius Pub-

lications Ltd, 1985, p. 297 f). The Convention now boasts sixty-two Contracting Parties, covering much of Europe and Africa, parts of Asia, Oceania and South America. The most recent recruits are Paraguay, Slovenia, Kenya, the United Republic of Tanzania and Latvia. Five further countries have completed the legislative procedures to accede and only need to submit their instrument of accession to the Depository. The Convention has spawned a number of Regional Agreements – the *Agreement on the Conservation of Bats in Europe* (Eurobats – see p. 13), the *Agreement on the Conservation of Small Cetaceans in the Baltic and*

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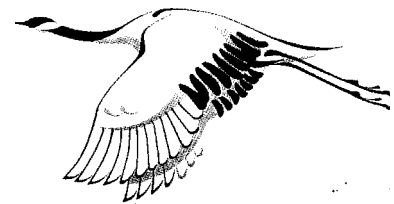
Bonn Convention on the Conservation of Migratory Species of Wild Animals Proves Successful

The German Government has expressed its satisfaction at the Bonn Convention on the Conservation of Migratory Species of Wild Animals adopted 20 years ago. As Rainer Baake, Undersecretary at the Ministry of the Environment, pointed out in Bonn [on 23 June 1999], the Agreement proved a success and made an important contribution towards the effective conservation of migratory species of wild animals. According to him, regional agreements signed within the framework of the Convention, e.g. on the *Conservation of Seals in the Wadden Sea, the Conservation of Cetaceans in the North and Baltic Seas, or the Conservation of Bats in Europe*, were especially successful.

Mr. Baake said that he expected the *African-Eurasian Waterbird Agreement*, which represents major progress in the field of international bird protection, to come into force even before the end of the year. Hans-Friedrich von Ploetz, Undersecretary at the German Foreign Office, called the Convention a successful example of efficient co-operation between industrial and developing countries. Only a holistic approach would bring about viable solutions.

The Bonn Convention, which was negotiated at the initiative of Germany, was signed by twenty-two States in the Bad Godesberg Municipal Hall on 23 June 1979. To date,

sixty-two contracting Parties have acceded to it. The objective of the Convention is to create equal conservation standards for migratory species of wild animals in the different Parties, as well as to remove obstacles the animals encounter when migrating from one country to another.



Source:
Press release by the Deutsche Presseagentur (dpa)

Legal Diversity in Practice: Agreements for the Implementation of CMS

Regional conservation Agreements for migratory species or groups of species are intended to form a key component of implementation of the CMS Convention. The Convention establishes a flexible framework for this purpose, but it is only in the 1990s that momentum has built up and a significant number of Agreements have been concluded.

As originally drafted, the proposed Convention referred to only one category of instrument (Agreements under Art. IV.3 for species in an "unfavourable conservation status" listed in Appendix II). However, the Conference of Plenipotentiaries (COP) that adopted the Convention in 1979 approved a proposal of the United States and created a second category ("agreements" under Art. IV.4). The Conference documentation does not explain the reasons behind the amendment and CMS is silent on the

form and content of Article IV.4 agreements.

Unsurprisingly, the coexistence of different instruments, effectively with the same name, generated legal confusion (e.g. which instrument to use for which species? were cumbersome ratification procedures necessary?). The COP therefore adopted a series of resolutions to facilitate and streamline substantive and procedural matters. Resolution 2.6 (1988) supports the use of instruments other than treaties, such as Conference resolutions, administrative agreements or memoranda of understanding (MoU), to implement Art. IV.4 within the spirit of the Convention. Draft *Guidelines for the Harmonisation of Future Agreements* were prepared in 1994 by the late CEL member Cyrille de Klemm. They are being revised by the ELC and the UNEP/CMS Secretariat and will be considered for future adoption. In the

meantime, the COP has emphasised the need to retain flexibility: "the range and type of possible Agreements, the best and most achievable means of conservation and management under the framework of CMS, and other circumstances may not render a single form of Agreement optimal for all cases." (Resolution 5.2, 1997).

As matters stand, there are three types of possible Agreements:

- Legally-binding Agreements (Article IV.3) between Range State Parties of Appendix II species, whose substantive content is largely governed by Article V (e.g. EUROBATS – see p. 13 and AEW – see p. 12).
- Agreements in the form of treaties under Art. IV.4, which may be concluded for "any population or geographically separate part of the population of any species or

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Commission on Environmental Law

Chairman's Letter

On Crossing a Watershed

When, in Montreal, IUCN's World Conservation Congress elected me to succeed Dr. Parvez Hassan as the Chairman of our Commission on Environmental Law, I had no idea that during my tenure our Environmental Law Programme would pass through a temporal watershed. The moment has come.

I do not write about the move last winter of over 5,000 boxes and furnishings from the ELC's former home at Adenauerallee to the fine new offices provided by the German Government in Bonn on Godesberger Allee, although Commission Members cannot help but be impressed when they visit this impressive edifice by its spacious library, computer center, and efficient offices. With the IUCN flag flying out front, and our partner organizations headed by Dr. Wolfgang E. Burhenne sharing the second floor of this five-story building, we have crossed a watershed into a new era of having the infrastructure to sustain our expanded environmental law operations world-wide.

Rather, I write to celebrate the author of that move, and a person to whom the environmental law community owes an enormous debt of appreciation and gratitude. On 1 July 1999, our colleague and friend, Dr. Françoise Burhenne-Guilmin, concluded her tenure as Head of the IUCN Environmental Law Centre. As the architect and author of the move to new offices in Bonn, the new IUCN ELC physically attests daily to her dedication and accomplishment. Without her, it would not be!

But the more telling testimony is found in the ideas now embedded in the Convention on Biological Diversity, or in the World Charter for Nature, or in the ASEAN Convention on Conservation of Nature and Natural Resources, or in myriad other treaties and national laws where her drafting precision, her brilliance for conceptualizing a new legal idea, and her prodigious capacity for hard work are evident. Françoise's legacy is alive in the law she helped to create. She is truly the "Mother" of biodiversity law, a field that most felt was but a wild dream as recently as 1986.

Françoise received the accolades of the IUCN Council last April in Gland, and of the CEL Steering Committee last March in Bonn. Her work has gained her many international awards, which she modestly and graciously accepts and puts aside as she launches into her next work. Fortunately for all of us, she will continue to serve IUCN working as Senior Counsel for the ELC. Her labor of love in building environmental law is far from over. We all welcome it!

Her successor is Charles Di Leva, a long time member of CEL, who comes to head the IUCN Environmental Law Programme from the Environmental Law Unit in the World Bank. Charles has great experience in all regions of the world, and even before his arrival he has already represented IUCN at the Conference of the Parties for the Ramsar Convention on Wetlands of International Importance held in Costa Rica. An accomplished author, teacher and a seasoned administrator, Charles' coming marks a passage across a divide, into a new watershed for the IUCN Environmental Law Programme. As good environmentalists, we have conserved the experience that Wolfgang Burhenne and Françoise Burhenne-Guilmin bring from their generations of leadership to enrich the new leadership of Charles Di Leva. Over this divide, I espy a rich new realm, fertile fields for our labors to build the legal foundations for sustainability. On behalf of all of us in CEL, may I thank Françoise for her past and future work, and welcome Charles to his new responsibilities.



Nicholas A. Robinson, Chairman, CEL

...Twenty Years Later

North Seas (ASCOBANS – see p. 6), the Wadden Sea Seal Agreement, the Agreement on the Conservation of Cetaceans of the Mediterranean and Black Seas (ACCOBAMS – see p. 14) and, the most ambitious of all so far, the African-Eurasian Waterbird Agreement (AEWA – see p. 12) with a potential membership of 117 countries. Numerous less formal agreements – Memoranda of Understanding (MoU) – are in force or are under negotiation, dealing with species as diverse as the Siberian Crane (*Grus leucogeranus*), the Great Bustard (*Otis tarda*), the Slender-billed Curlew (*Numenius tenuirostris*), and Marine Turtles of the African Atlantic coast, in which several countries not party to the parent Convention also participate. A number of other Agreements and MoUs are in different phases of preparation, concerning species such as the Houbara Bustard (*Chlamydotis*

undulata) in Asia, albatrosses of the southern hemisphere, Sahelo-Saharan antelopes, and ungulates of the Arabian peninsula.

1999 not only commemorates the twentieth anniversary, but also marks the year of the 6th Meeting of the Conference of the Parties, which takes place near Cape Town, South Africa, from 10-16 November, immediately following the inaugural Meeting of the Parties of the AEWA (7-9 November at the same venue). Delegates from over eighty countries have already registered indicating that the 6th Conference will be the best attended one yet.

The Conference will decide the Convention's strategic direction for the next five years and determine the budget for the next three. It will also consider proposals to amend the appendices. Appendix I currently

includes seventy-six species, while Appendix II includes approximately one thousand species. Several species in Appendix I, such as the Siberian Crane, the White-tailed Eagle, the Hawksbill Turtle, the Mediterranean Monk Seal, the Dama Gazelle, the Mountain Gorilla and the Snow Leopard, require direct action by the Parties. Species in Appendix II would benefit from concerted, collaborative action by the Range States. The delegates will be mindful that the Conference will be the last to take place in the 20th century and their decisions will set the course for the Convention as it too prepares to face the challenges of the new Millennium.

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...Legal Diversity

lower taxon of wild animals, members of which periodically cross one or more national jurisdictional boundaries" and which are open to non-Range States (e.g. ASCOBANS - see p. 6 and ACCOBAMS - see p. 14).

- Administrative Agreements under Art. IV.4 (*Memoranda of Understanding for the Siberian Crane, Slender-billed Curlew and Marine Turtles of the Atlantic Coast of Africa*).

The choice of the type of Agreement adopted varies according to the legal, geographic and scientific issues under consideration and the intentions of the Range States concerned. AEWA and ACCOBAMS, for example, involved too many countries and affected too many economic sectors to be negotiated through non-political channels. On the other hand, each took years to be concluded and neither is yet in force.

In contrast, MoU can provide faster international coordination for very highly endangered species and may facilitate a more aspirational or innovative approach. They constitute official commitments signed by high-level government representatives of Range States and are primarily intended to initiate and co-ordinate short-term administrative and scientific measures. They do not require ratification, can enter into force immediately and can be easily amended: the 1993 MoU on the Siberian Crane has been superseded by a completely updated instrument finalised in December 1998 and effective since 1 January 1999. MoU may be used in isolation or as a preliminary step (species-specific action plan) towards the negotiation of a formal treaty.



Action/Conservation Plans may be annexed to an MoU. Specific tasks are assigned to every Range State according to its role in the species' migration (breeding or wintering sites etc.). This has two benefits: first, it is easier to verify compliance and second, non-signatory Range States know exactly what would be required of them if they were to sign the MoU at a future date. In addition, each MoU designates specialised NGOs and the UNEP/CMS Secretariat as "cooperating organisations". These organisations undertake to provide administrative and technical support for Range States: for example, BirdLife International drafted the long-term action plan on Slender-billed Curlews.

MoU do not establish institutional or financial requirements (they are *de facto* administered by the CMS Secretariat) and have no separate representation at meetings of the CMS

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The Convention on Migratory Species and BirdLife International

When we think of migratory species, it is perhaps birds that spring first to mind. Certainly, in the history and development of the CMS, bird conservation organisations have been closely involved, in particular BirdLife International. This is a global partnership of conservation organisations working for the diversity of life through the conservation of birds and their habitats. BirdLife recognises clearly the crucial role that CMS and its Agreements can play, and actively contributes to the work of the Convention in a number of ways.

As arguably the leading authority on the world's birds and their habitats, BirdLife brings to the Convention the latest data on populations and distribution, with well-researched information on threats and possible solutions. A regular and active contributor to the Conference of the Parties of the Convention, BirdLife has also helped to draft such key Agreements as the *African-Eurasian Waterbird*

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COP. However, the CMS Standing Committee reviews their progress at each meeting and the COP may adopt recommendations addressed to any type of Agreement. In addition, existing MoU provide for mechanisms to supervise compliance. These range from correspondence or personal contacts with the CMS institutions (Slender-billed Curlew) to annual reports and regular meetings attended by representatives of signatories and technically qualified persons or agencies (Siberian Crane, Turtles). Rather ironically, signatories to these less formal instruments therefore report on and compare implementation more frequently than under almost any binding environmental instrument!

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Agreement (see p. 12) and provides the secretariat for the Slender-billed Curlew Working Group established under the auspices of the Convention.

There are many challenges still facing the Convention. In many countries, species in danger of extinction are not given any legal protection whatsoever, and in many more the enforcement of the law is weak or non-existent. As no one can fail to notice, the habitats and sites on which migratory birds, and so many other species, depend are being deliberately destroyed by humans for industry, for agriculture, for highways and for a host of other developments. What is so tragic is that much of this development could be redirected, meeting the needs of this generation without destroying possibilities for the future. What are needed are the will, the resources and the determination to make it happen. The Bonn Convention is definitely a part of the solution. Parties must be helped to put in place effective legislation, and systems and mechanisms of enforcement, perhaps based on best practice from elsewhere. Areas which are of particular importance for the most threatened species need to be protected as nature reserves. The Convention must not hesitate to point out to Parties where key sites are being damaged, or migration routes obstructed, and to work with them towards solutions. Involvement of appropriate NGOs in the decision-making processes needs to be encouraged and stepped up.

Not least, the Convention needs to grow. Recent developments have been encouraging, and sixty Parties acting together can achieve a lot, but many more states are needed, particularly in Asia and the Americas. There are no effortless solutions; all those involved with the Convention, from the Secretariat in Bonn to the remotest national NGO, need to demonstrate that the Convention and its Agreements are of potential ben-

efit to every state, whatever its other formal commitments to migratory species, and whatever its traditions of harvesting migrants.

Working alongside the Standing Committee, the Scientific Council and the Secretariat, BirdLife aims to assist the Convention, using the latest data to update the Appendices and suggesting and supporting Agreements for single species and groups of species. Some current initiatives which deserve more support include the imminent, and potentially invaluable, *African-Eurasian Waterbird Agreement*, and so-far rather slow-moving draft instruments for the Great and Houbara Bustards and for two South American flamingos. A little further ahead, an Agreement on albatrosses, so hard-pressed by modern fisheries, is surely badly needed. Migrant birds of South America are also clear candidates for improved co-operation. European species, including the Aquatic Warbler, also need attention. BirdLife will urge and persuade the Parties (at specific meetings and COPs as well as day by day in their own countries) to grasp the initiative and develop such Agreements at a much faster rate than is presently the case. Not least, BirdLife will spread the word about the Convention out through its networks to its millions of supporters worldwide. If the CMS fails to conserve migratory birds, if a single species is added to the long list of extinctions, then BirdLife will also have failed. If birds are to remain a byword for the awesome phenomenon of migration, then all involved must redouble their efforts to see that such failures are not allowed to occur.

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ASCOBANS – Saving Europe’s Whales, Dolphins and Porpoises

Many species of whales, dolphins, and porpoises (*Cetacea* being the scientific term for this order of marine mammals) are true nomads of the sea. They migrate seasonally between their breeding and feeding habitats, overwintering ranges, or follow their prey over long distances. En route, they encounter a variety of man-made threats, of which by-catch (the accidental entanglement in fishing gear) is considered the most serious. Migrating cetaceans are not restricted by national boundaries, so protecting them effectively within European waters calls for international co-operation.

The *Agreement on the Conservation of Small Cetaceans of the Baltic and North Seas* (ASCOBANS) was concluded in 1991 under the auspices of the *Convention on the Conservation of Migratory Species of Wild Animals* (CMS). The Agreement encourages co-operation among Range States with respect to habitat conservation and management, the adoption of measures against marine pollution, research, and public information.

Seven countries bordering the Baltic and North Seas are Parties to the Agreement (Belgium, Denmark, Germany, The Netherlands, Poland, Sweden and the United Kingdom). Other States considering acceding to the Agreement include Estonia, Finland, France, Latvia, Lithuania, Norway and Russia as well as the EU). These countries share the common concern that continuously high by-catch rates, habitat deterioration and anthropogenic disturbance are likely to threaten the existence of small cetaceans in the Baltic and North Seas. This is most obvious in the case of the Baltic Harbour Porpoise population.

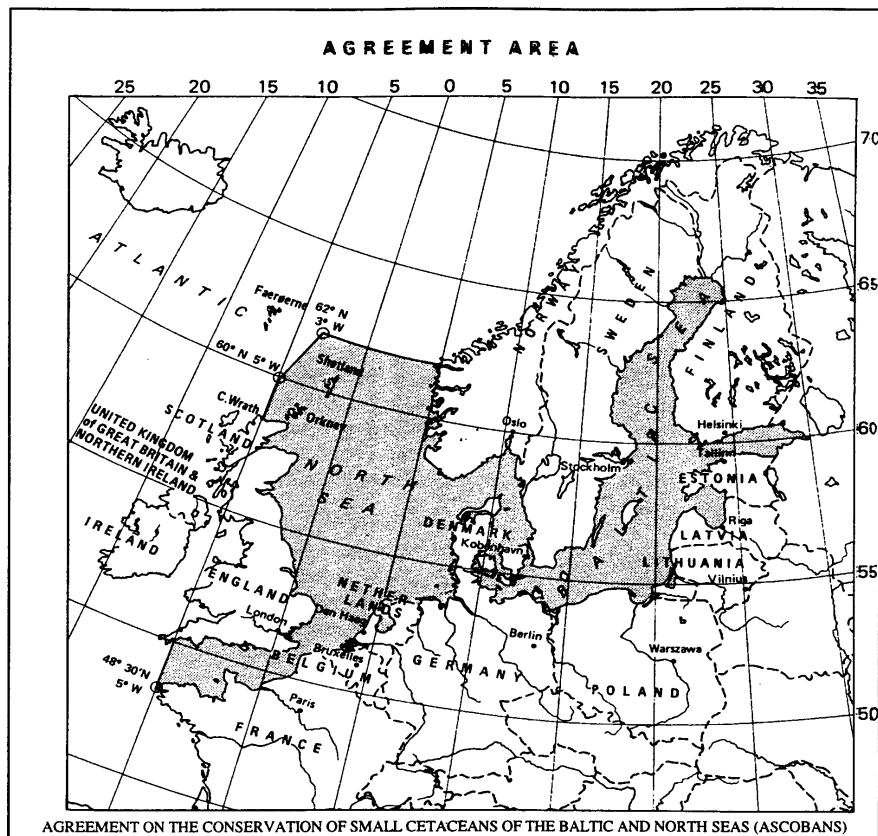
The Baltic Harbour Porpoise (*Phocoena phocoena*) is the most com-

mon cetacean species in the North Sea and the only native cetacean inhabiting the Baltic Sea. Porpoises are small dolphin-like animals with a low triangular dorsal fin. They generally occur singly or hunt in small groups. Until the 1930s, the range of the Baltic population extended northeastwards as far as the Åland Islands, north of Stockholm, and included the Gulf of Riga and the entrance to the Gulf of Finland. Since then, a dramatic decline in numbers has been accompanied by a steady retreat from large areas of their former range in the eastern and central Baltics. Today, Baltic Harbour Porpoises are generally restricted to the Kattegat and Belt Sea in the very west of their original habitat, with only occasional sightings along the German, Polish, and Swedish Baltic Sea coasts. In the North Sea, cetaceans are facing similar threats. According to an estimate by the *International*

Council for the Exploration of the Sea (ICES), more than 4,400 porpoises are killed each year in fishing operations throughout the North Sea.

Marine pollution is another serious threat that calls for an international, co-ordinated approach. Hazardous substances, such as heavy metals and organic compounds, accumulate in marine organisms, and travel up the food chain to the highest levels in the body tissues of marine mammals, adversely affecting their health. To counter this threat, ASCOBANS will intensify its co-operation with other international organisations, e.g. the *International Whaling Commission* (IWC), the *Commission for the Protection of the Marine Environment of the North-East Atlantic* (OSPAR) and the *Baltic Marine Environment Protection Commission* (HELCOM).

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Diplomatic Conference on the Arrest of Ships Convention

The *Diplomatic Conference of the Arrest of Ships Convention* was held in Geneva, 1-12 March 1999. This Convention allows for ships to be seized to enforce maritime claims. The Arrest Convention does not list environmental claims specifically, but it nevertheless has some environmental relevance. The 1997 draft Convention had specifically included "damage to the environment" in Art. 1(d) as a ground for arrest. At the Diplomatic Conference the US delegation proposed a re-wording of the draft Art. 1(d) provision and it was agreed that the following was a maritime claim within the Convention:

damage or threat of damage caused by the ship to the environment, coastline or related interests; measures taken to prevent, minimize, or remove such damage; compensation for such

damage; costs of reasonable measures of reinstatement of the environment actually undertaken or to be undertaken; loss incurred or likely to be incurred by third parties in connection with such damage; and damage, costs, or loss of a similar nature to those identified in this subparagraph;

It will be seen that this definition (up until the penultimate semicolon) includes elements of definition from the LOS Convention 1982 and the International Convention on Civil Liability for Oil Pollution Damage 1992 (CLC). Overall, this was a rather more restrictive definition, but at the time it was proposed the US was also putting forward a catch-all paragraph to allow claims of a "similar nature" to all those listed in Art. 1 (therefore including (d)). The US proposal for

the catch-all to apply to the whole of Art. 1 was later rejected, largely on the grounds of certainty. In fact, the conference was itself divided on this broad issue (the "open" or "closed" list issue). In an informal working group, a compromise between the two camps was proposed, whereby the expression "of a similar nature" would only be applied to the environmental claims in Art. 1(d). This proposal was agreed in the informal working group and was then carried in the plenary, thereby removing one of the main obstacles to the agreement of the Convention as a whole.

The final version of Article 1(d) is not a perfect draft, but represents a considerable advance. It means that arrest is possible for claims that are asserted to be within the above definition, but there is also some flexibility, if there is a trend towards widening maritime claims generally. The inclusion of "threat to damage" may be particularly significant. Arrest may be of the guilty ship and of sister ships in the same ownership. Unfortunately, the Diplomatic Conference rejected as too radical the proposal to include the arrest of "one-ship" companies controlled by the liable shipowner. However, it will be possible to allow for "topping up" of security by arresting more than one ship, where the value of the first ship arrested is lower than the claim. Of course, the arrest powers, and the amount of security which may be demanded, are restricted by other Conventions providing for limitation of liability (e.g. the CLC 1992 and the HNS Convention 1996), which provide for release of the ship on the establishment of an appropriate limitation fund.

Call for nominations of the Chair of the IUCN Commission on Environmental Law

In July 1999, the IUCN Director-General, Dr Maritta R. von Bieberstein Koch-Weser, wrote to members of all IUCN Commissions to solicit nominations for Chairs of each Commission.

Kindly find enclosed the letter of the Director-General.

You will note that the present Chair of CEL, Professor Nicholas A. Robinson, is eligible for re-election. He has graciously indicated to me that he is prepared to serve a second term as Chair of CEL.

Nominations should be directed to Dr Wren Green, Chair of the IUCN Council Search Committee – Commission Chairs, in due course.

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Agreement on the Conservation of Seals in the Wadden Sea

The *Agreement on the Conservation of Seals in the Wadden Sea* (Seal Agreement) concluded between Denmark, Germany and The Netherlands, was enacted on 1 October 1991. This was the first agreement as defined in Article 4 of the *Convention on the Conservation of Migratory Species of Wild Animals* (the Bonn Convention). The secretariat for the agreement is the *Common Wadden Sea Secretariat* in Wilhelmshaven, Germany.

The aim of the Seal Agreement is to promote co-operation in the conservation of the common seal of the Wadden Sea. The population was reduced to about 60% in 1988 as a result of the seal epidemic. Since then, the population has recovered significantly. According to coordinated aerial flights in the entire Wadden Sea, a total of about 14,400 common seals was counted in 1998, of which about 2,700 were pups. This remarkable growth can be attributed to improvements in the reproductive rate as well as reduced initial juvenile mortality.

The Seal Agreement has played an essential role in turning the tide; but while the present population can hence be regarded as viable in terms of numbers, the environmental conditions are still not satisfactory. The present and short-term conservation status of the common seal in the Wadden Sea Area is threatened by pollution and disturbance as a result of various human activities, such as tourism, recreational activities, air traffic and military activities.

The "Conservation and Management Plan for the Wadden Sea Seal Population" (Seal Management Plan) is the key instrument to achieve and maintain the objectives of the Seal Agreement. The geographical scope of the Seal Agreement and the present Seal Management Plan is the Trilateral Wadden Sea Co-opera-

tion Area, which is the area seaward of the main dike and includes the adjacent off-shore area within the three-nautical-mile zone. Scientific research provides evidence that the adjacent North Sea is also of importance in the lifecycle of common seals.

In accordance with the Seal Management Plan, seal reserves have been established in the entire Wadden Sea and are closed to all activities during the birth and nursing period. In 1996, a revised Plan was adopted by the Contracting Parties for the period 1996-2000. It deals with the actions regarding research and monitoring, taking and protection of habitats, as well as other management measures such as the protection of the grey seals. The taking of seals from the Wadden Sea is prohibited, and the exemptions for taking have been specified in the current Seal Management Plan. Exemptions for handling and nursing of diseased or weakened seals or abandoned pups may only be carried out by authorized persons, and concern only such animals which have a chance to survive. Re-

habilitated seals may only be released into the wild if certain criteria are met, e.g., seals that have not been treated with specific groups of medicine and that have not been kept in centers where species alien to the Wadden Sea are held.

Growing populations of seals, such as the Wadden Sea common seal, may increase conflicts with other interest groups, e.g. fishery. It may also challenge the current protection scheme of reserves because increasing numbers may demand the establishment of additional reserves. The Seal Management Plan 1996-2000 is an essential instrument in anticipating such developments by seeking the balance between conservation, management and use of the area, in order to ensure a viable stock and the natural reproductive capacity of seals.

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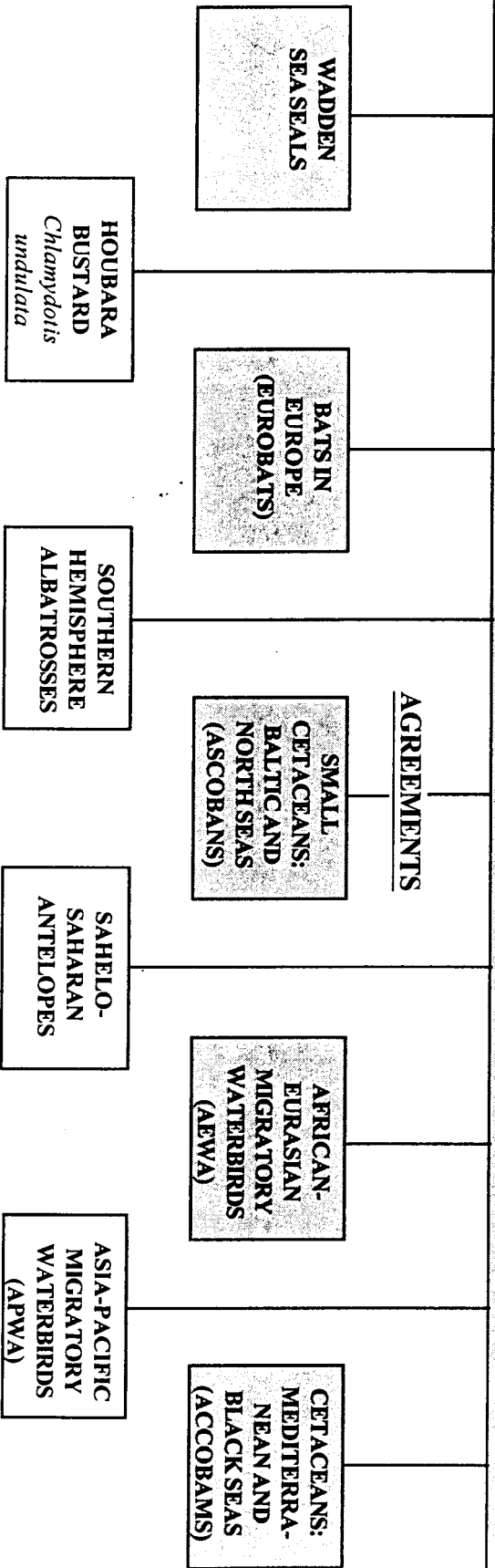




UNITED NATIONS CONFERENCE ON THE HUMAN ENVIRONMENT, Stockholm 1972



CONVENTION ON THE CONSERVATION OF MIGRATORY SPECIES OF WILD ANIMALS (CMS), Bonn 1979



MEMORANDA OF UNDERSTANDING



ACTION PLANS



CONCLUDED/
IN FORCE



IN PREPARATION

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.

CALENDAR C

As of 27 Sep

27 Sept - 6 Oct	Oranjestad, Aruba	Conference of Plenipotentiaries to Adopt the Protocol on Land-Based Sources of Marine Pollution (LBSMP) Contact: UNEP – Caribbean Environment Programme; tel: (1 876) 922 9267; fax: (1 876) 922 9292; e-mail: unepcruja@cwjamaica.com; Internet: www.cep.unep.org/
28 Sep - 1 Oct	Rome, Italy	11th Session of the FAO Panel of Experts on Forest Gene Resources Contact: FAO, Via delle Terme di Caracalla 00100 Rome, Italy; tel: (39 6) 5705 2753; fax: (39 6) 5705 6347; Internet: www.fao.org
4-8 Oct	San José Costa Rica	CBD Expert Panel on Access and Benefit-Sharing Contact: CBD Secretariat; World Trade Center, 393 St. Jacques Street, Suite 300, Montreal, Quebec, Canada H2Y 1N9; tel: (1-514) 288-2220; fax: (1-514) 288-6588; e-mail: chm@biodiv.org; Internet: www.biodiv.org.
4-8 Oct	Asuncion, Paraguay	4th International Congress for the Management of Wildlife in Amazonia and Latin America Contact: Richard Bodmer, Programs in Tropical Conservation, University of Florida, P.O. Box 115531, Gainesville, FL 32611-5531, USA; tel: (352) 392-6548; fax: (352) 392-0085; e-mail: tcd@tcd.ufl.edu; Internet: www.geoplan.ufl.edu/congreso4/index.html
6-8 Oct	Vienna, Austria	UNFCCC Workshop on Compliance Contact: Mukul Sanwal, UNFCCC Secretariat, Haus Carstanjen, Martin-Luther-King-Strasse 8, 53175 Bonn, Germany; tel: (49 228) 815-1000; fax: (49 228) 815 1999, e-mail: msanwal@unfccc.de; Internet: www.unfccc.de
12-13 Oct	Geneva Switzerland	World Trade Organisation Committee on Trade and Environment Contact: Hans-Peter Werner, World Trade Organization (WTO), Rue de Lausanne 154, CH-1211 Geneva 21, Switzerland; tel: (41-22) 739-5286; e-mail: media@wto.org; Internet: www.wto.org/wto/environ/environm.htm
24-26 Oct	Colombo, Sri Lanka	Regional Session of the Global Biodiversity Forum Contact: P. Balakrishna, IUCN South and Southeast Asia Regional Biodiversity Programme, 48 Vajira Road, Colombo 5, Sri Lanka; tel: (94 1) 510 517; fax: (94 1) 580 202; e-mail: pbala@sitnet.lk
25 Oct - 5 Nov	Bonn, Germany	5th Meeting of the Conference of the Parties to the United Nations Framework Convention on Climate Change (UNFCCC) Contact: UNFCCC Secretariat, Haus Carstanjen, Martin-Luther-King-Strasse 8, 53175 Bonn, Germany; tel: (49 228) 815-1000; fax: (49 228) 815 1999, e-mail: secretariat@unfccc.de; Internet: www.unfccc.de
27-30 Oct	Malta	Meeting of the Contracting Parties to the Mediterranean Action Plan Contact: L. Chabason, UNEP/MEDU; fax: (301) 725 3196-7; e-mail: unepmedu@complink.gr
28-29 Oct	Paris, France	General Assembly of States Parties to the World Heritage Convention Contact: World Heritage Centre, UNESCO, 7, place de Fontenoy, 75352 Paris 07SP, France; fax: (33 1) 4568-5570, e-mail: wh-info@unesco.org; Internet: www.unesco.org/whc/nwhc/pages/home/pages/homepage.htm
30 Oct	Paris, France	4th Extraordinary Session of the World Heritage Committee Contact: World Heritage Centre, UNESCO, 7, place de Fontenoy, 75352 Paris 07SP, France; fax: (33 1) 4568-5570, e-mail: wh-info@unesco.org; Internet: www.unesco.org/whc/nwhc/pages/home/pages/homepage.htm
7-9 Nov	Cape Town, South Africa	1st Session of the Meeting of the Parties to the Agreement on the Conservation of African-Eurasian Migratory Waterbirds (AEWA) Contact: UNEP/CMS Secretariat, Martin-Luther-King-Str. 8, 53175 Bonn; tel: (49 228) 815 2401/2; fax: (49 229) 815 2449; e-mail: cms@unep.de; Internet: www.wcmc.org.uk/cms
8-10 Nov	Geneva Switzerland	Working Group on Biotechnology Contact: World Intellectual Property Organization (WIPO), 34, chemin des Colombettes, P.O. Box 18, 1211 Geneva 20, Switzerland; tel.: (41 22) 338 9111; fax: (41 22) 733 54 28; Internet: www.wipo.org
10-16 Nov	Cape Town, South Africa	6th Meeting of the Conference of the Parties to the Convention on Migratory Species Contact: UNEP/CMS Secretariat, Martin-Luther-King-Str. 8, 53175 Bonn; tel: (49 228) 815 2401/2; fax: (49 229) 815 2449; e-mail: cms@unep.de; Internet: www.wcmc.org.uk/cms
15-26 Nov	Recife, Brazil	3rd Session of the Conference of the Parties to the UN Convention to Combat Desertification Contact: CCD Secretariat, Haus Carstanjen, Martin-Luther-King-Strasse 8, 53175 Bonn, Germany; tel: (49 228) 815-2800, fax: (49 228) 815 2899; e-mail: secretariat@unccd.de; Internet: www.unccd.de
20-22 Nov.	Wuhan, China	International Conference on Sustainable Environment and Resources Law Contact: Wang Xi, Research Institute of Environmental Law, Wuhan University, Wuhan, People's Republic of China; tel./fax: (86 27) 8764 9859; e-mail: wangzi@public.wuhan.cngb.com

OF MEETINGS

September 1999

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

- 25-27 Nov Castelo Branco, Portugal Congreso Internacional: Ambiente y Desarrollo Sostenible en el Umbral del Tercer Milenio
Contact: Dra. Silvia Jaquenod de Zsögön, Ilustre Colegio de Abogados de Madrid, Calle Serrano, 11 – 4ª Planta, 28001, Madrid, Spain; tel: (34 91) 435 7810 ext. 340 or 283; fax: (34 91) 559 1595; e-mail: zsongon@iies.es
- 26-27 Nov Marrakesh, Morocco 23rd Extraordinary Session of the Bureau of the World Heritage Committee
Contact: World Heritage Centre, UNESCO, 7, place de Fontenoy, 75352 Paris 07SP, France; fax: (33 1) 4568-5570; e-mail: wh-info@unesco.org; Internet: www.unesco.org/whc/nwhc/pages/home/pages/homepage.htm
- 29 Nov - 4 Dec Marrakesh, Morocco 23rd Session of the World Heritage Committee
Contact: World Heritage Centre, UNESCO, 7, place de Fontenoy, 75352 Paris 07SP, France; fax: (33 1) 4568-5570; e-mail: wh-info@unesco.org; Internet: www.unesco.org/whc/nwhc/pages/home/pages/homepage.htm
- 29 Nov - 3 Dec Beijing, China 11th Meeting of the Parties to the Montreal Protocol
Contact: The Secretariat for the Vienna Convention and the Montreal Protocol, P.O. Box 30552, Nairobi, Kenya, tel: (254 2) 62 1234, fax: (254 2) 62 3601; e-mail: ozoneinfo@unep.org; Internet: www.unep.org/ozone/
- 30 Nov - 3 Dec Seattle, WA, USA 3rd World Trade Organization Ministerial Meeting
Contact: WTO Information and Media Relations Division, Centre William Rappard, 154 rue de Lausanne, 1211 Geneva 21, Switzerland, tel: (41 22) 739 5007/5190; fax: (41 22) 739 54 58; e-mail: mary.richards@wto.org; Internet: www.wto.org
- Nov - Dec Kingston, Jamaica 9th Intergovernmental Meeting on the Action Plan for the Caribbean Environment Programme and 6th Meeting of the Contracting Parties to the Convention
Contact: UNEP – Caribbean Environment Programme; tel: (1 876) 922 9267; fax: (1 876) 922 9292; e-mail: unepcruja@cwjamaica.com; Internet: www.cep.unep.org
- 6-10 Dec Basel, Switzerland 5th Session of the Conference of the Parties of the Basel Convention
Contact: Secretariat of the Basel Convention, tel: (41 22) 917 8218, fax: (41 22) 797 3454; e-mail: bulskai@unep.ch; Internet: www.unep.ch/basel/index.html
- 6-10 Dec Ottawa, Canada About Legally Binding Instruments on Forests (Final Meeting)
Contact: Jacques Gagnon, Costa Rica/Canada Initiative, Canadian Forest Service; tel: (1 613) 947 9100; fax: (1 613) 947 9033; e-mail: jgagnon@nrcan.gc.ca; Internet: www.nrcan.gc.ca/cfs/crc
- 7-10 Dec Washington, DC USA NGO Consultation Meeting and GEF Council Meeting
Contact: The GEF Secretariat, 1818 H Street, NW, Washington, DC 20433, USA; tel: (1 202) 473 0508; fax: (1 202) 522 3240 or 522 3245; Internet: www.gefweb.org

2000

- Jan Riyadh, Saudi Arabia Workshop on Islamic Environmental Law
Contact: Prof. Dr. Abdulaziz H. Abuzinada, National Commission for Wildlife Conservation and Development (NCWCD), P.O. Box 61681, Riyadh 11575, Kingdom of Saudi Arabia; tel: (966 1) 441 8700; fax: (966 1) 441 0797; e-mail: ncwcd@ncwcd.geis.com
- 24-28 Jan Montreal, Canada *Ad hoc* Working Group on Article 8(j) of the Convention on Biological Diversity
Contact: CBD Secretariat, World Trade Center, 393 St. Jacques Street, Suite 300, Montreal, Quebec, Canada H2Y 1N9; tel: (1 514) 288 2220; fax: (1 514) 288 6588; e-mail: chm@biodiv.org; Internet: www.biodiv.org
- 31 Jan - 4 Feb Montreal, Canada 5th Meeting of the SBSTTA of the Convention on Biological Diversity
Contact: CBD Secretariat, World Trade Center, 393 St. Jacques Street, Suite 300, Montreal, Quebec, Canada H2Y 1N9; tel: (1 514) 288 2220; fax: (1 514) 288 6588; e-mail: chm@biodiv.org; Internet: www.biodiv.org
- 31 Jan - 11 Feb New York, USA 4th and Final Session of the Intergovernmental Forum on Forests (IFF)
Contact: IFF Secretariat, Two UN Plaza, 12th Floor, New York, NY 10017, USA; tel: (1 212) 963 3401; fax: (1 212) 963 3463; Internet: www.un.org/esa/sustdev/iff.htm
- 16-22 March The Hague, The Netherlands 2nd Water Forum and Ministerial Conference
Contact: Ministry of Foreign Affairs, P.O. Box 20061, 2500 EB The Hague, The Netherlands; tel: (31 70) 348 5402; fax: (31 70) 348 6792; e-mail: hans.van.zijst@dml.minbuza.nl
- 10-20 April Nairobi, Kenya 11th Conference to the Parties to CITES
Contact: CITES Secretariat; tel: (41 22) 979 9138; fax: (41 22) 979 3417; e-mail: cites@unep.ch; Internet: www.cites.org
- April New York, USA 8th Session of the Commission on Sustainable Development
Contact: Andrey Vasilyev, Division for Sustainable Development; tel: (1 212) 963 5949; fax: (1 212) 963 4260; e-mail: vasilyev@un.org; Internet: www.un.org/esa/sustdev/csd.htm
- 15-26 May Nairobi, Kenya 5th Meeting of the Conference of the Parties to the Convention on Biological Diversity
Contact: CBD Secretariat, World Trade Center, 393 St. Jacques Street, Suite 300, Montreal, Quebec, Canada H2Y 1N9; tel: (1 514) 288 2220; fax: (1 514) 288 6588; e-mail: chm@biodiv.org; Internet: www.biodiv.org

The Agreement on the Conservation of African-Eurasian Migratory Waterbirds (AEWA)

This Agreement, the largest of its kind developed so far under CMS, was concluded on 16 June 1995, when representatives of over sixty-six countries met in The Hague, Netherlands. The AEWA covers 172 species of birds ecologically dependent on wetlands for at least part of their annual cycle, including many species of pelicans, storks, flamingos, swans, geese, ducks and waders. The Agreement concerns 117 countries (plus the European Union) from Europe, parts of Asia and North America, the Middle East and Africa. In fact, the geographic area covered by the AEWA stretches from the northern reaches of Canada and the

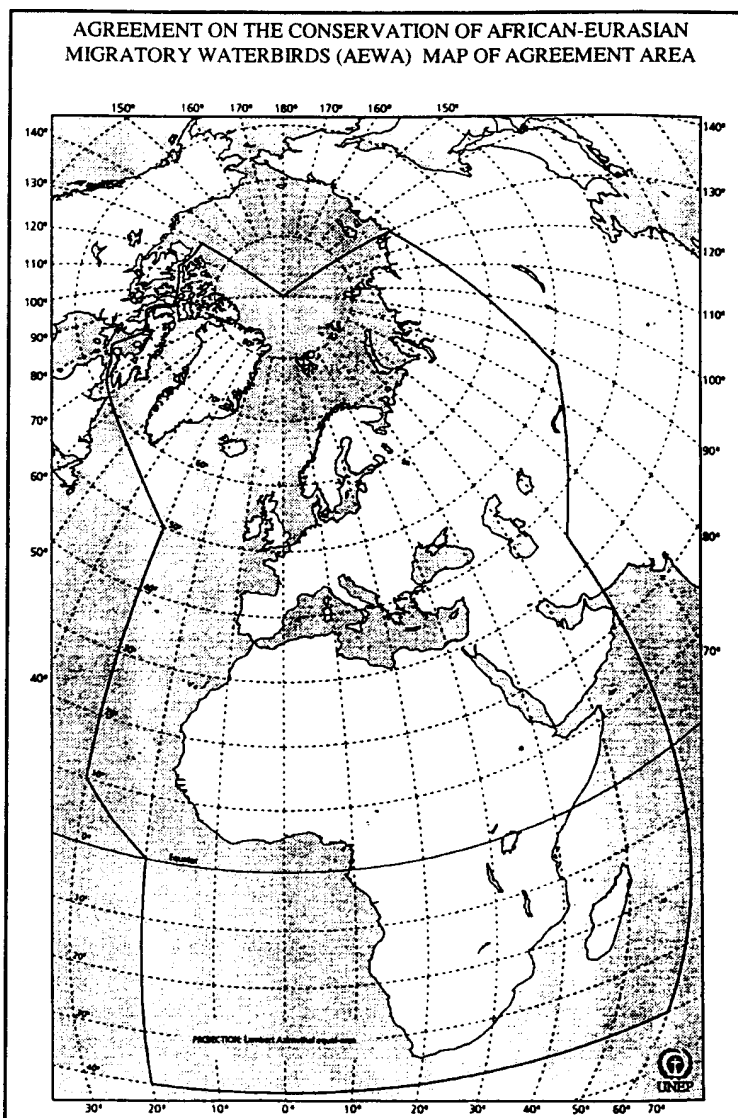
Russian Federation to the southernmost tip of Africa. The Agreement provides for co-ordinated and concerted actions to be taken by the Range States throughout the migration systems of the waterbirds to which it applies. Parties to the Agreement are called upon to engage in a wide range of conservation actions which are described in a comprehensive Action Plan. This detailed plan is the product of extensive negotiations and discussions among governments, as well as interested conservation and user groups. It addresses such key issues as: species and habitat conservation, management of human activities, research

and monitoring, education and information, and implementation.

A number of important tasks were assigned to the first session of the Meeting of the Parties to the Agreement. This meeting will be held in conjunction with the 6th meeting of the Conference of the Parties to CMS (scheduled for 7-9 November 1999 in Cape Town, South Africa). The tasks include the establishment of a Technical Committee and the creation of a permanent Agreement secretariat.

The Government of the Netherlands is providing an interim secretariat for three years, and the permanent secretariat functions will subsequently be assumed by the Secretariat of the parent Convention. The Depositary, the Ministry of Foreign Affairs of The Netherlands, opened the Agreement for signature on 15 August 1996 after having provided the Agreement text in its four official languages (Arabic, English, French, and Russian). The Agreement will enter into force after it has been ratified by fourteen Range States or regional economic integration organizations (seven from Africa and seven from the rest of the Agreement area).

Various projects are already envisaged under this Agreement, among them: promotion of biodiversity conservation in wetlands, rehabilitation of former brown-coal pits in Germany, monitoring of bird migration in the Middle East, and habitat conservation in African countries. Various species conservation plans have also been prepared. Most of them will serve as models to facilitate implementation of the Agreement after its entry in force.



Source: Guide to the Convention on the Conservation of Migratory Species of Wild Animals, May 1999

Agreement on the Conservation of Bats in Europe

In 1991, the *Agreement on the Conservation of Bats in Europe* (EUROBATS) was concluded under Article IV of the *Convention on the Conservation of Migratory Species of Wild Animals* (CMS). It was concluded in association with the 3rd Meeting of the Conference of the Parties of CMS, and entered into force in 1994. At present, fourteen European States are Parties: Czech Republic, Denmark, France, Germany, Hungary, Ireland, Luxembourg, the Netherlands, Norway, Poland, Portugal, Sweden and the United Kingdom. In 1999, Bulgaria, the FYR Macedonia, and the Ukraine acceded to the Agreement. At least five other countries are preparing to ratify the Agreement. EUROBATS can therefore be considered one of the fastest growing and most successful Regional Agreement for the conservation of one particular endangered species.

Bats, the only flying mammals, play an important role in our ecosystem, particularly as hunters of nocturnal pests. It is not generally known that – like many species of birds – certain species of bats migrate across Europe, over very long distances.

The Parties agree to, *inter alia*,

- prohibit the deliberate capture, keeping or killing of bats except under permit from the respective competent authority;
- identify sites within the Party's jurisdiction that are important to the conservation of bats and protect sites from damage or disturbance;
- promote public awareness (e.g. European bat night);
- consider the potential effects of pesticides on bats when assessing pesticides for use;
- endeavour to replace timber treatment chemicals which are highly toxic to bats with safer alternatives;

- promote programmes relating to conservation and management of bats.

Research and conservation projects for various species are underway as well as projects to be implemented in Central and Eastern European countries, including regions in non-Party Range States.

EUROBATS aims to protect all thirty-one species of bats identified in Europe through legislation, education, and conservation measures, as well as co-operation among Parties. An Advisory Committee was established to implement the Action Plans adopted at the 1st Meeting of the Parties in 1995. The Action Plans call for activities and projects to improve research and monitoring of bat species. A Pan-European observation study is being undertaken by the Advisory Committee to identify population trends. The study focuses on those species that migrate furthest across Europe in order to identify and

address possible dangers caused by bottle-neck situations in their migration route. The results of these studies are intended to lead to a comprehensive international programme for the conservation of the most endangered bat species in Europe.

Besides the administrative work related to the implementation of the Agreement, the EUROBATS Secretariat aims to raise broad public awareness for the need of bat conservation. Informing the public about how they can help is one of the aims of the many events organised around the European Bat Night, which for the third time took place in nineteen European countries on the last weekend of August 1999.

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Agreement on the Conservation of Cetaceans of the Mediterranean and Black Seas (ACCOBAMS)

In the Mediterranean and Black Seas, twenty-two cetacean species have been spotted at least once – the cetacean population is thus highly diversified for such a closed sea. But these populations suffer many aggressions. Taking through incidental catch, over-exploitation of the fishing stock, chemical pollution, persistent synthetic materials, the intensification of maritime traffic, and the development of "whale-watching" all exert pressure whose impact must be assessed in order to define priority actions to protect these species.

The ACCOBAMS Agreement aims at reducing threats to cetaceans in the Mediterranean and Black Seas. Among other things, the Agreement will require Signatories to protect dolphins, porpoises and other whales, and to establish a network of protected areas important for their feeding, breeding and calving.

The Agreement was concluded in November 1996. Representatives of over twenty Mediterranean and Black Sea States, together with observers from numerous intergovernmental and non-governmental organisations participated in the Signatory meeting. The Agreement will come into effect after it has been ratified by seven coastal States: two on the Black Sea and five on the Mediterranean Sea. At present, the Principality of Monaco, Spain and Morocco have ratified the Agreement.

ACCOBAMS extends to the inland waters connected to the Black and Mediterranean Seas, as well as to the Atlantic area contiguous to the Mediterranean west of the Straits of Gibraltar. It is the first Agreement that enables States in these two sub-regions to work together on matters of general interest.

The Agreement requires States to implement a detailed conservation plan for cetaceans, based on:

- respect of legislation banning the deliberate capture of cetaceans;
- measures for minimising incidental catch;
- and, the creation of protected zones, important for the feeding, breeding and birthing of cetaceans.

The Agreement presents an interesting mechanism for the conservation of the cetaceans, keeping in mind that co-ordinated action is needed to reduce the impact of fishing fleets of non-riparian States. To this end, the Agreement uses the Bonn Convention notion of "Range States", defined as "any State exercising sovereignty and/or jurisdiction in any part of the range of a population of cetaceans covered by this Agreement, or a State whose flag vessels practise activities in the Agreement area that may affect the conservation of cetaceans".

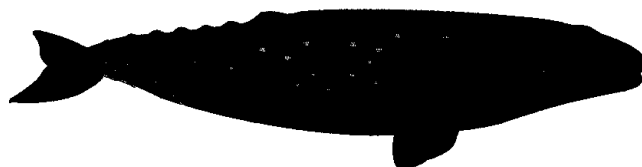
ACCOBAMS will be implemented with the help of two sub-regional co-ordination units to be designated in each sub-region, and a Scientific Committee. All structures are to be designated within an existing institution. The institutional structure of the Barcelona (for the Mediterranean) and of the Bucharest (for the Black Sea) Conventions and the International Commission for Scientific Exploration of the Mediterranean are particularly suitable for this purpose. Due to this institutional arrangement, ACCOBAMS appears as a very innovative co-operative tool in the conservation of biodiversity.

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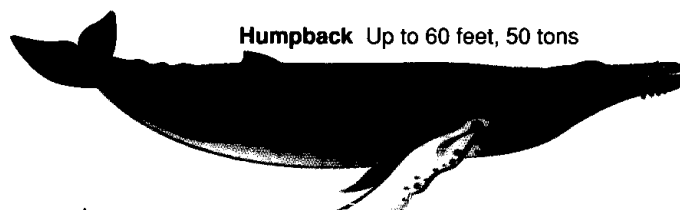
Minke Up to 30 feet, 10 tons



Gray Up to 50 feet, 30 tons



Humpback Up to 60 feet, 50 tons



The Permanent Court of Arbitration as International Environmental Court

Two events of fundamental importance for the peaceful settlement of environmental disputes took place at The Hague, in May 1999. The first was the UN International Conference *Hague Appeal for Peace (HAP), Agenda for Peace and Justice for the 21st Century*, held from 11 to 15 May. The second was the Centennial Celebration of the Permanent Court of Arbitration (PCA), held 17 May.

At the HAP Conference, the author made a presentation on the need for an International Court for the Environment, and addressed the new challenges for the PCA to act as a forum for dispute resolution in environmental matters. He proposed that the PCA provide a forum for Parties to resolve environmental disputes. This forum would be open to State and non-State actors such as NGOs, IGOs, private individuals and businesses. The PCA would enhance the control and implementation of international environmental agreements, and contribute to the further development of international environmental law, thereby guaranteeing more effectively the protection of the environment, including the Global Commons, as well as of the legal interests of injured individuals.

At the Centennial Celebration of the PCA, held at The Hague, Members adopted a resolution calling for, *inter alia*, "the Secretary General and the International Bureau of the [PCA] to vigorously pursue the recent initiatives to expand the Court's role – including those in the area of environmental disputes, taking into account the entire range of international dispute resolution mechanisms administered by the Court".

The PCA offers many advantages. First, this institution, having its roots in the Hague Peace Conferences of 1899 and 1907, is well recognized and accepted by numerous UN Member States.

Second, it offers facilities for four of the dispute-settlement methods listed in Art. 33 of the UN Charter: inquiry, mediation, conciliation and arbitration. In 1966, the PCA established new Optional Conciliation Rules enabling the Parties, including States, international organisations, NGOs, companies and private associations, to use these mechanisms. The Rules are based on the UNCITRAL Conciliation Rules and can be linked with possible arbitration. Concerning arbitration, in 1992 the PCA adopted *Optional Rules for Arbitrating Disputes between Two States* and in 1993 *Optional Rules for Disputes between Two Parties of Which Only One is a State*. As a result, disputes between a non-State actor and a State can be submitted to the PCA. In May 1996 these Optional Rules were extended to the Rules for Arbitration to allow international organisations and States as well as international organisations and private parties to bring a claim to the PCA. By widening its dispute settlement mechanisms to States, NGOs, IGOs, and private parties, the PCA's jurisdiction goes well beyond that of the International Court of Justice.

Third, the important issue of the extra financing required for a new Court for the Environment speaks in favour of the PCA, which already has in place an administrative and logistical infrastructure. The costs of arbitration proceedings are borne by the Parties. Financial assistance is provided to States that need financial help to meet the costs involved through the PCA Financial Assistance Fund for the Settlement of International Disputes. In the future, this financial assistance could also be extended to non-State actors.

Fourth, the flexibility of the Court with regard to the venue for the settlement of the dispute should also be noted. In transnational environmental litigation,

in particular, the venue is important in terms of providing evidence of the harm. Parties to a dispute can agree on the venue and where no agreement is reached, the hearings shall take place at The Hague.

In February 1998 the "Working Group on Environmental and Natural Resources Law", established by the PCA, met to formulate special procedural rules for dispute settlement in environmental matters. The First Provisional Draft co-ordinates the various mechanisms of inquiry, mediation, conciliation and arbitration, and stresses the advantages of a fact-finding commission of inquiry that could be used to support conciliation, as well as the arbitration procedure. The "non-compliance" procedure is incorporated in the mediation and conciliation process. Within the arbitration proceedings, the regulations focus on the crucial aspects of legal access, *ius standi* of NGOs, private enterprises, environmental interest groups and individuals as well as on the exhaustion of local remedies.

Although the PCA would be the proper institution to settle environmental disputes, one must bear in mind that it is only by agreement of the Parties or by compromise that the competence of the Court can be established. The Secretary-General of the PCA is prepared to assist the parties in elaborating such special agreements.

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Proposed Soil Convention: The Tutzing Project "Time Ecology"

In 1998, the Tutzing Project "Time Ecology" published a proposal for a *Convention on Sustainable Use of Soils* (Soil Convention). The proposal intends to stimulate discussion on the creation and implementation of an international convention on the sustainable use of soils. It has been translated into six languages and is being distributed world-wide for comment.

According to the proposal, the many different soil degradations accumulate to a global threat to humankind comparable in magnitude to the anthropogenic greenhouse effect and to the loss of biological diversity – both of which are now the subjects of international conventions. The principal objective of the proposed Soil Convention would be the "conservation and sustainable use of soil resources". Sustainable use would be defined as "preserving a balance between soil formation and soil degradation", as well as "maintaining all soil functions". Implementation of the proposed Soil Convention would occur primarily at the national level. Parties would be obliged to develop systematic national soil inventories identifying relevant "soil degradation syndromes". Soil degradation syndromes involve the regional or local grouping of soil degradation features according to typical causes and phenotypes.

The proposal envisions a globally co-ordinated system of soil monitoring and research. Parties would be obliged to develop systematic and comprehensive soil monitoring. The proposal makes reference to the use of particular methodologies, including Global Assessment of Soil Degradation (GLASAD), World Overview of Conservation Approaches and Technologies (WOCAT), Index on Sustainable Use of Soils (ISUS), as well as co-operation towards a globally co-ordinated soil survey.

Various Agreements and soft law instruments address the issue of soil

conservation. The Desertification Convention addresses a specific process affecting soils – desertification. As a result, it is geographically restricted to the dry, semi-arid and dry sub-humid areas that are affected by desertification.

The *Convention on Biological Diversity* (CBD) has broad implications for soil use. The principal objectives of the CBD include the conservation of biological diversity and the sustainable use of biological resources. Soil is an important repository for biological diversity, and also an important biological resource itself. Application at the ecosystem level has the most implications for soils, because soils form an integral part of each terrestrial ecosystem.

The *UN Framework Convention on Climate Change* (UNFCCC) and the Kyoto Protocol have implications for soil use, stemming from a provision calling for the sustainable management, conservation and enhancement of "sinks" for greenhouse gases. Soil has been identified as a significant source and sink for greenhouse gases.

Examples of regional agreements that make specific reference to soil include:

- *African Convention on the Conservation of Nature and Natural Resources* (1968);
- *ASEAN Agreement on the Conservation of Nature and Natural Resources* (1985, not yet in force).
- *Agreement on the Action Plan for the Environmentally Sound Management of the Common Zambesi River System* (1987);
- *Protocol on the Application of the Alpine Convention* (1994, not yet in force).

The principal soft law instrument is the World Soil Charter (1981). Developed under the auspices of the

UN Food and Agriculture Organisation, the Charter has a predominantly agricultural orientation. The Charter's Guidelines for Action ask governments to: develop a policy for wise land use and incorporate principles of wise management and soil conservation into resource legislation; develop an institutional framework for monitoring and supervising soil management and conservation; and implement programmes for the dissemination of information about soil management and conservation.

The *European Soil Charter* (Council of Europe, 1972) consists of twelve basic principles. It was significantly enhanced by Recommendation No. R(92) 8 on Soil Protection (1992), which contains a Soil Protection Policy, Soil Management Principles and Operational Principles.

The question of whether an international convention is the appropriate mechanism to deal with soil use and conservation, a very national issue, is yet to be answered, although the Desertification Convention has been praised for its relatively "bottom up" structure.

International legal efforts could be concentrated on the development of guidelines and principles specifying the means by which soil biodiversity should be considered within the broader ecosystem context. One option could be the development of instruments under other International Agreements, for example under the CBD. This would ensure that soil issues are addressed by each CBD programme. More importantly, this option may be more politically feasible than a Soil Convention.

*Philip Freeman
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Workshop on the Enforcement of and Compliance with Multilateral Environmental Agreements

Enforcement of and compliance with the provisions of CITES, the Basel Convention and the Montreal Protocol were the focus of a workshop held recently in Geneva. The workshop, which discussed illegal trade, environmental crimes and violations of multilateral environmental agreements (MEAs), was convened by UNEP in Geneva from 12-14 July. Participants included customs, public prosecution and police enforcement officials from developed and developing countries. Resource persons and facilitators at the workshop included staff from UNEP, CITES, Basel and Ozone secretariats, Interpol and the World Customs Organizations.

Working Groups examined the development, causes and extent of illegal trade of and traffic in species and substances covered by the three MEAs. Measures that have been effective in combating illegal trade as well as interagency co-operation, both nationally and internationally, were discussed.

The following recommendations for improving enforcement of and compliance with these MEAs were made at the Workshop:

- UNEP should provide a leadership role in the area of environmental crimes;
- States and Convention Secretari-

ats should hold regular dialogue and share trade data in order to help with co-ordinating national, regional and international enforcement networks and ensure synergy in curbing environmental crimes;

- Law enforcement and customs officials should co-ordinate efforts in detecting, investigating and preventing illegal traffic and trade;
- Guidelines and training manuals should be developed;
- States should seek technical and financial assistance for projects and activities geared towards implementation and enforcement of and compliance with MEAs;
- States should develop and/or strengthen national laws and regulations to deal with illegal trade and traffic;
- All stakeholders, including NGOs and the private sector, should be involved in these efforts;
- The Secretariats of the three MEAs should co-ordinate with the Secretariats of regional agreements, such as the Lusaka Agreement on Co-operative Enforcement Operations Directed at Illegal Trade in Wild Fauna and Flora.

During the workshop, the Executive Director of UNEP announced the appointment of a senior officer to take the lead in these follow up matters. Furthermore, UNEP will address the issue of enforcement of and compliance with MEAs during the process of the development of the UNEP Programme for the Development and Periodic Review of Environmental Law for the first decade of the next millennium.

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...ASCOBANS

In April 1999, delegates from Parties and Range States attended the annual meeting of the ASCOBANS Advisory Committee, held in Aberdeen, Scotland. France, Latvia, and the Russian Federation participated for the first time. Denmark presented its new *Action Plan for Reducing Incidental By-catches of Harbour Porpoises*, the first co-ordinated contribution from a Party to implement the 1997 ASCOBANS *Resolution on Incidental Take of Small Cetaceans*. It is expected that other Parties will follow Denmark's example and present their action plans during the coming year. A Steering Group was formed to organize a *Workshop on the Review of By-catch Mitigation Measures with Special Reference to the ASCOBANS Area*. The Workshop will bring together cetacean biologists, fishery managers, experts on fishing techniques as well as fishermen's organizations to develop and evaluate practicable by-catch mitigation measures.

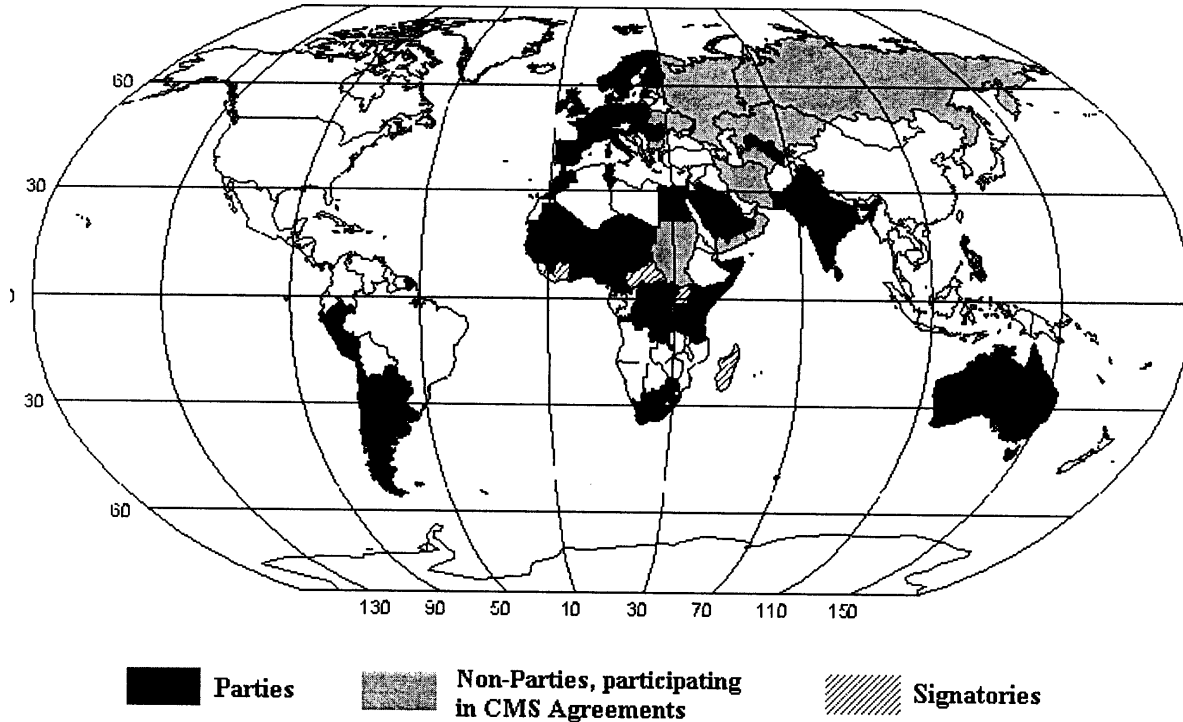
As part of its public awareness campaign, the ASCOBANS Secretariat has published a new web page that provides detailed information about whales, dolphins, and porpoises in the Baltic and North Seas. Information may also be obtained directly from the ASCOBANS Secretariat, now located with the UNEP/CMS Secretariat in Bonn, Germany.

Dr. Holger Auel
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Convention on the Conservation of Migratory Species of Wild Animals

*Map of CMS Parties, Signatories and other participating States
(as of 01.05.99)*



The boundaries shown on this map do not imply official endorsement or acceptance by UNEP

New Parties to Major International Environmental Treaties

Ratification Status as of 2 August 1999*

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

Latvia	-26.04.1999
Tanzania	-23.04.1999
Greece	-29.07.1999
Ukraine	-02.08.1999

Total number of Parties: 62

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

Chad	-23.06.99
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Total number of Parties: 157

Framework Convention on Climate Change, 09.05.1992:

Madagascar	-02.06.1999
Libya	-14.06.1999

Total number of Parties: 179

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

Solomon Islands	-16.04.1999
Singapore	-26.04.1999
Colombia	-08.06.1999
Palau	-15.06.1999
Congo	-12.07.1999

Total number of Parties: 154

* Dates shown are dates of deposit of instruments of consent to be bound

Regional

ELP Environmental Law Service

East Asia

The ELC and IUCN **Bangladesh** will collaborate with the Bangladesh Environmental Law Association in the revision of the country's Environment Framework Law. The request came from the Ministry of Environment and Forest and a first study on the national policies and legal framework regarding conservation of natural resources and ecosystems is expected before the end of the year. This review will also examine the implementation status of the late Dr. Mahiuddin Farooque's recommendations contained in the 1997 report on Bangladesh's Biodiversity Legal and Institutional Profile.

The ELC and IUCN **Nepal** have agreed to co-operate on two activities for 1999. A second judges' training programme (the first was held in 1997) is scheduled to take place in late November and will focus on biodiversity issues. The second activity is a review of Nepal's forestry legislation aimed at identifying implementation bottlenecks (cf. NRI Forestry Study).

Africa

The Executive Secretariat for the Environment of **Cape Verde** (SEPA) and the ELC held two training courses on Cape Verde's main provisions for the protection of the environment. The first course took place in the island of Boavista and the second in Tarrafal, island of Santiago. They were both supervised by a team of two lawyers, one from Cape Verde and the other from Portugal. In total, more than 60 participants – representatives of the judiciary, various ministries, local authorities and civil society – took part. The training material will be used for future activities in the Portuguese speaking world.

A third and final workshop was held in Addis Ababa to discuss the draft

Environment Framework Law. The three-day event, organised by the Environmental Protection Agency of **Ethiopia**, was attended by government officials, civil society representatives. Carl Bruch from the Environmental Law Institute, an IUCN member, presented a review of the draft bill prepared by African environmental lawyers, a process jointly co-ordinated with the ELC. The draft law will be presented in the autumn to the government for approval.

After eleven months of conflict, the ELC is re-starting its activities in **Guinea-Bissau**. A mission was undertaken in August to assess the material losses as well as prepare the re-launching of the project's activities. The upcoming election in November will be a determining factor for consolidating peace in the country and allow the European Union (EU) to resume co-operation. The Environmental Legislative Centre set up under the auspices of IUCN Guinea-Bissau, the EU and the Environment Ministry of Guinea-Bissau will soon begin its activities.

The first phase of a project leading to the drafting of a Forestry Protocol to the **Southern Africa Development Community** (SADC) Treaty is coming to a close. Thirteen national reviews (Angola, Botswana, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, Swaziland, South Africa, Tanzania, Zambia, and Zimbabwe) and three sector reports (agriculture, energy and trade) are being finalised. The analysis of all reviews will help the three-expert team to draw up the outline for the Protocol. In an upcoming mission to the Forest Sector Technical Co-ordination Unit of SADC (FSTCU SADC) in Lilongwe, Malawi, the team will be joined by ELC Consultant Richard Tarasofsky to discuss the next phase of the project, which will include country consultations on the Protocol Outline.

Natural Resources International Forestry Study

Malawi, Mexico and **Nepal** have been chosen as the country case studies for the Department for Interantional Development (DFID) financed study on a review of the interaction between legislative processes and forestry laws. To implement this project, the ELC will be collaborating with the IUCN offices in Lilongwe and Kathmandu and the Mexican Centre for Environmental Law (CEMDA).

Regionalization

The ELC and CEL held a meeting in Gland (20-23 July) with several RO representatives from Africa, Asia and Latin America to discuss the implementation of a project aimed at regionalizing the Environmental Law Programme. The meeting was held at the same time as the IUCN Global Programme meeting to take advantage of RO attendance. The group discussed the concept of regionalization as well as possible activities and regions to be covered under the project in the near future. The possibility was also raised to hold an African regionalisation meeting by the end of the year, which would bring together CEL members, ROs and IUCN members to discuss regional approaches to environmental law.

– MAC/ADE



ELC Staff News

After five years at the ELC, **Lyle Glowka**, Legal Officer (Biological Diversity), resigned his post as of 30 June. He has started a legal and policy consulting firm, Biodiversity Strategies International. He can be reached at lglowka@csi.com or lglowka@compuserve.com

Michael Schatzschneider, Personal Assistant, left the ELC in July. He has taken up a new position at LEAD Europe (based in Bonn).

We wish both of them all the best.

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 580 international and environmental law specialists in over 108 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 wel-

comes 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, Godesberger Allee 108-112, 53175 Bonn, Germany; tel: (49-228) 2692-231; fax: (49-228) 2692-250; e-mail: secretariat@elc.iucn.org.

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