



October-December 1998

Ramsar Standing Committee Approves Draft Resolution on Law

The focus of this edition of the IUCN Environmental Law Programme Newsletter is on the legal and institutional aspect of wetlands conservation and wise use. This theme originated in a project recently completed by the Environmental Law Programme (ELP) on behalf of the Bureau to the Convention on Wetlands of International Importance (Ramsar). Some of the Newsletter's contributions on wetlands have originated directly from the project.

The project was designed to develop draft technical guidance on how Ramsar Contracting Parties can undertake a review of legislation and institutions relevant to wetlands conservation and wise use. The technical guidance would support the wetlands planning and policy processes of Ramsar Parties. Guidance would take the form of an annex to a Ramsar Conference of Parties resolution. An

over-riding goal of the project was to focus on "how-to" or practical approaches for undertaking legal and institutional reviews.

The substance of the draft technical annex, and that of an accompanying draft background document, both written by IUCN Commission on Environmental Law (CEL) member Clare Shine, was the primary subject of a 3-4 July 1998 technical consultation of experts entitled "Designing Methodologies to Review Laws and Institutions Relevant to Wetlands" which met at IUCN Headquarters. The core group of seven experts – Grethel Aguilar (CEL) (Costa Rica), Jens Ene-mark (the Wadden Sea countries), technical consultation chairman John Ntambirweki (CEL) (Uganda), Devaki Panini (India), Bill Phillips (Australia), Clayton Rubec (Canada) and Pedro Solano (Peru) – was drawn from each of the seven Ramsar regions. Each prepared a case study for the meeting describing briefly the approach their particular country or countries used to review legislation and institutions relevant to wetlands.

Two resource people – Gordana Beltram (Slovenia) and Stéphane Doumbé-Bille (CEL) (Cameroon) – were invited to the meeting to contribute their expertise. Finally, Ramsar's partner organizations sent representa-

tives. David Pritchard (Birdlife International) and Biksham Gujja (WWF-International) both attended.

With the input received from the experts at the technical consultation the documents were subsequently revised by Clare Shine and Lyle Glowka (IUCN-ELC). They were submitted by the Ramsar Bureau to the Ramsar Standing Committee for consideration in October 1998, along with a draft resolution produced by the Bureau. The Bureau reported to the ELC that the Standing Committee had no changes, therefore, it is likely that the first Ramsar Convention resolution on law will be adopted at the seventh meeting of the Conference of Parties which will take place in San José, Costa Rica 10-18 May 1998.

The project is an excellent example of how the IUCN Environmental Programme contributes to the conceptual development of environmental law.

– LAG

The ELC is moving to new premises in January:

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Highlights of the CEL Steering Committee Meeting

This year's second meeting of the CEL Steering Committee was held 29-31 October 1998 in Paris at the University of Paris I. The major issues addressed at the Steering Committee meeting included the draft strategic plan, the appointment of CEL working groups, the status of project proposals being developed by CEL members, CEL regional initiatives, and the draft "Code of Conduct on Transboundary Protected Areas in Times of Peace and Armed Conflict."

Strategic Plan

The draft strategic plan was reviewed, and members suggested a number of changes to its structure and substance. The plan, which is being prepared in accordance with Resolution 1.41 of the World Conservation Congress in Montreal, will be finalised at the Steering Committee meeting in March 1999 and then presented to the IUCN Director General. It will be submitted for adoption at the World Conservation Congress in 2000.

CEL Working Groups

Six CEL working groups were established by the Steering Committee at the proposal of the Chair. They are:

- Working Group on Information Technology for Environmental Law (Chair, Robert Goldstein)
- Working Group on Judicial Implementation of Environmental Law (Chair, Prof. Charles Okidi)
- Working Group on Ethics & Jurisprudence (Chair, Dr. Parvez Hassan)
- Working Group on Climate & Energy (Chair, Prof. Adrian Bradbrook)
- Working Group on Environmental Law Legal Education (Chair, Prof. Irene Lin Heng Lye)
- Working Group on Indigenous People, Tribals and Local Communities (Chairs, Prof. Donna Craig and Prof. M. K. Ramesh)

CEL members who would like to participate in these should contact the appropriate chair.

CEL Project Proposals and Project Concepts

The status of project proposals and concepts developed by CEL members was also discussed. The draft project proposal, "*Legal Interpretation and Application of the World Heritage Convention*", which was developed by CEL members Ben Boer

and David Haigh, has been submitted to the World Heritage Centre of UNESCO. It will be considered and (hopefully) endorsed by the World Heritage Committee at its forthcoming session.

Six project concepts have been proposed by CEL members in Africa. These were prepared in response to the Chair's call for project concepts which could be submitted to the Global Environmental Facility (GEF). The Steering Committee commended the CEL members for their initiative and requested the ELC to follow up with CEL members and IUCN regional and country offices to discuss ways of further developing the project concepts.

CEL Regional Initiatives

Progress in establishing regional centres of excellence was also discussed. Co-operative agreements have been signed between the newly established Centre for Environmental Legal Studies Eurasia (Ecopravo) and WWF, and discussions are underway with other organisations for support. Negotiations are continuing for establishing centres of ex-

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Colloquium on Landscape Conservation Law: Present Trends in International and Comparative Law

On 30 October, the IUCN Commission on Environmental Law (CEL), the IUCN World Commission on Protected Areas (WCPA), and the French Society for Environmental Law organised a colloquium on Landscape Conservation Law: *Present Trends and Perspectives in International and Comparative Law*. The colloquium was held to commemorate the 50th Anniversary of IUCN, and took place in Paris at the Palais du Luxembourg, the prestigious building of the Senate of France.

The importance of better protection, management and planning of landscapes was discussed in detail at the

colloquium, which was organised into two sessions. In the morning session, panellists made presentations on European initiatives, such as the draft European Landscape Convention and the Pan-European Biological and Landscape Diversity Strategy (PEBLDS). During the afternoon session, panellists made presentations on efforts in other regions, such as Africa, North America, and East Asia, to promote landscape conservation.

A major conclusion of the colloquium was that there was a need for better co-ordination of the initiatives underway in Europe. There was a

strong view that:

1. a closer working relationship between UN Economic Commission for Europe (UN/ECE) and the Council of Europe (COE) was desirable to assist in the technical and policy work carried out in PEBLDS Action Theme 4, and the development of the draft European Landscape Convention; and
2. IUCN Commissions should be given an opportunity to express their views in finalising the draft European Landscape Convention.

A joint letter from CEL and WCPA conveying this message will be sent to both UN/ECE and COE.

– NWI

Commission on Environmental Law

Letter from the Chairman

The Legal Agenda for Managing Climate

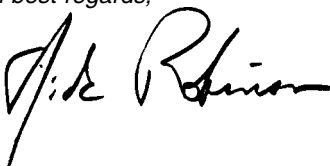
Ministerial meetings in environmental negotiations have proven values. Getting a good night's sleep is not among them. It took an all-night session of the ministerial meeting at the 1992 UN Conference on Environment and Development to bring to closure the debate on the "bracketed" parts of Agenda 21. Last November 13th in Buenos Aires, it again required the participation of high level officials to conclude the negotiations on the Action Plan to implement the Kyoto Protocol, implementing the United Nations Framework Convention on Climate Change (UNFCCC). The delegates of some 170 nations concluded their last day of negotiations at 5:00 a.m. on Saturday, November 14th. Negotiations nearly broke down at 3:00 a.m. when representatives of India, China, Saudi Arabia, Venezuela, Tanzania and the Philippines walked out for a time over the funding of monitoring procedures in developing countries.

At the end of the following day, the Buenos Aires Action Plan set an agenda for negotiations leading up to the 6th Conference of the UNFCCC Parties in the year 2000. These talks will proceed on a forced march, since there is little agreement yet on how in fact to stabilize greenhouse gas emissions at 5.2% of the baseline 1990 levels by the years 2008-2012, as agreed to in Kyoto. Expect many more all-night sessions. The negotiations in Buenos Aires succeeded in many ways. There will be ministerial meetings every six months between now and 2000, including the 5th COP in 1999. There will be two subsidiary organs of the COP established, one on implementation and one on scientific matters. There are some 143 elements enumerated in an open-ended set of compliance methods, all of which must be studied and examined for possible selection as preferred means to curb greenhouse gas accumulation in the atmosphere.

IUCN faces numerous challenges in assisting this workplan. First, as to carbon sinks, there is a dearth of good scientific information about what ecological management standards should govern carbon sequestration in forests, wetlands, marine phytoplankton, or elsewhere. There can be no effective use of carbon sinks unless biological conservation standards are set for them. IUCN's scientific commissions, staff and Members must be galvanized to study these aspects and make some concerted recommendations on standards that can sustain biological diversity. Second, the compliance methods include many recommendations that the Commission on Environmental Law will study and prepare evaluative assessments. The CEL Working Group on Climate Change, chaired by Prof. Adrian Bradbrook (Adelaide University, Australia) already has elements of its studies outlined. Third, the fundamental issue in all UNFCCC negotiations is "equity." African States made this case strongly in Buenos Aires, having met before at the UNEP offices in Nairobi to coordinate their views. Africa consumes 2-3% of the world's energy resources (and 40% of that is in South Africa), and yet the UNFCCC negotiations would oblige Africa to make cut-backs and secure carbon in sinks, without the developed world making any effort to address the problem of poverty and natural resource degradation in Africa. There will be no agreement on new proposals, such as "joint implementation," carbon emission trading, or the "Clean Development Mechanism" (CDM) unless these innovations fairly address the environmental quality of the poorer regions. The IUCN CEL Working Group on Ethics and Jurisprudence, chaired by Dr. Parvez Hassan, has met and undertaken to address this issue of fundamental fairness in the emerging new world order for managing climate change.

With the Environmental Law Centre occupying new offices in Bonn in early 1999, and the UNFCCC Secretariat also located in Bonn, and with new CEL Working Groups underway, IUCN is primed to address the agenda of the Climate negotiations over the next two years.

With best regards,



Nicholas A. Robinson

BCIS Accepts ELP Proposal: Rating the Legal Protection of Wetlands

The value of wetlands in relation to the health of the planet has been well documented. A group of pre-eminent international environmental advocates and policy makers have come together, under the auspices of the Biodiversity Conservation Information System ("BCIS"), to spearhead a number of efforts to provide for the preservation of wetlands. The IUCN Environmental Law Programme ("ELP"), as a member of BCIS, has been instrumental in providing a legal dimension to the development of knowledge-bases on biodiversity.

One of the most ambitious of these efforts involves the cataloguing and categorizing of the world's most important wetlands. This effort will identify and delineate wetlands providing an invaluable database to ecologists and preservationists.

The ELP, under the auspices of CEL Chair, Nicholas A. Robinson and ELC Head, Françoise Burhenne, proposed to add a new critical element to this effort. It was suggested that the preservation goals of cataloguing and categorizing wetlands will only be reached if effective legal systems are purposely focused on the problem. To do this, the identifica-

tion process needs to differentiate among levels of established legal protection mechanisms. Research to date proves that in many jurisdictions, wetland preservation is assumed despite the surprising lack of substantive protection. In other jurisdictions what is touted as a preservation scheme is sadly just a facade of procedural protections, requiring nothing more than the ability to procure the proper permits before destroying these vital ecosystems.

The proposal is to identify and then quantify the protections afforded to wetlands jurisdiction-by-jurisdiction. Quantification, always a difficult (and delicate) subject when legal systems are involved, will be somewhat subjective. These evaluations will be based on set matrices that will be applied uniformly. The failsafe will be the juxtaposition of those quantified analyses with the actual law upon which it is based. The casual user can therefore get an overall evaluation by merely looking at the rating, while the legal researcher can simultaneously access the full-text of the statutes and jurisprudence upon which the rating is based.

The results will be contained in an internet-accessible database that parallels the wetlands inventory, and which can be used in conjunction with it. The effort will include the characterization of wetlands under the law and a quantitative evaluation of the level of protection based upon various objective criteria. Application of these results will be linked to the data compiled by those cataloguing the wetlands using a geographic information system (GIS) application. The rating system will be displayed graphically on an overlay map in a color-coded system reflecting the level of protection from green (the least protected) to red (the best preserved). The system will have the ability to both identify the criteria for the rating on the particular wetland, and also identify (and display) the

relevant provisions upon which the evaluation was based.

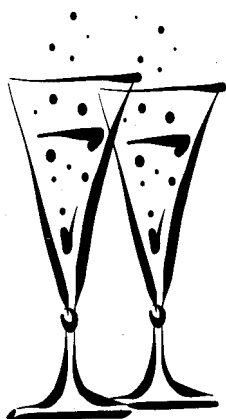
At the 2nd International Conference on Wetlands and Development in Dakar, Senegal, 8-14 November, 1998, this proposal was presented to a specialists group on wetland inventories. After a day discussing the existing resources and methods of wetlands inventory, a second day-long session was devoted to the application of these techniques to a pilot project devised to demonstrate the best practices in the inventorying of wetlands. The author, invited to participate and present the ELP's proposal, outlined the needs and uses of the legal component to the specialist group. With the group's unanimous consensus, the ELP will participate in the process of preparing a comprehensive proposal for a pilot project.

This project is an initiative of BCIS, a consortium whose members include The Nature Conservancy, Conservation International, IUCN and Wetlands International. The environmental law aspect of the project will be undertaken by a team of experienced environmental lawyers under the auspices of the Environmental Law Programme of IUCN. This team will draw upon the expertise of members of IUCN's Commission on Environmental Law; the legal database experience of Pace University School of Law's Center for Environmental Legal Studies; and the documentary resources of the IUCN Environmental Law Centre in Bonn, Germany.

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A happy New Year

Un buen Año Nuevo



LEGAL OBLIGATIONS UNDER THE CONVENTION ON WETLANDS

The Convention on Wetlands of International Importance especially as Waterfowl Habitat was the first global treaty concluded for the conservation of specific ecosystems. Parties are bound by three main categories of obligation covering non-site-specific and site-specific measures and international cooperation. Pursuant to the broad definition of wetlands in Article 1.1, these inter-related obligations are equally applicable to inland and coastal wetlands.

Non-site-specific obligations

Under Article 3.1, Parties must formulate and implement their planning to promote as far as possible the "wise use" of wetlands in their territory. This ambitious concept, radical for the early seventies, is not defined by the Convention. It took twelve years from its entry into force for the COP to define "wise use" as "*the sustainable utilization of wetlands for the benefit of mankind in a way compatible with the maintenance of the natural properties of the ecosystem*" (Rec.3.3, 1987). Detailed guidance for implementation of the wise use obligation has since been provided by three decisions of the COP (Annexes to Rec.3.3 (1987), Rec.4.10 (1990) and Res.5.6 (1993)).

Wise use is a cross-cutting issue because of the high number of wetland users and uses and the dependence of wetlands on the quality and quantity of (external) water supply. Parties are urged to implement comprehensive National Wetland Policies that address all problems and activities related to wetlands and their support systems. Such policies may be stand-alone or form part of environmental action plans or biodiversity strategies. They should address social and economic factors (the main reasons for wetland loss) and take account of coastal zones or catchments of which wetlands form an integral part. The precautionary principle should apply to activities affect-

ing wetlands where knowledge of ecological constraints of a wetland system is not available.

The wise use obligation establishes a legal basis for adopting legislative and institutional measures to regulate or manage processes or activities damaging to wetlands, wherever they occur. Parties should develop integrated multidisciplinary approaches to wetland planning and management through coordination between different departments and levels of government, public and private institutions and sectoral interests. They should review their legislation, institutions and practices, including subsidies and incentives, to identify legal and administrative constraints which prevent management at the correct scale (e.g. catchments) and support the development of legal measures to facilitate wise use. Participatory approaches involving local communities and indigenous people in the management of wetlands should be promoted. Projects liable to affect wetlands should be systematically subject to environmental impact assessment procedures and provision should be made for inventorying and monitoring wetlands.

Site-specific obligations

Upon signature or ratification, each Party must designate at least one wetland for inclusion in the Ramsar List of Wetlands of International Importance in accordance with listing criteria adopted by the COP and must formulate and implement its planning so as to promote the conservation of Ramsar sites (Articles 2.4 and 3.1). This requirement is an *obligation of result*, to maintain the sites' ecological character (defined in Resolution VI.1 (1996)). The Convention does not specify how this should be done or require Parties to attribute a special legal status to listed wetlands. Parties must therefore select measures appropriate to

their legal systems and socio-economic/cultural circumstances to safeguard these exceptional wetlands against damaging processes and activities, wherever these occur.

Parties must also establish nature reserves on wetlands with adequate provision for their wardening (Article 4.1). Guidelines on wetland management planning have been approved by the COP (Annex to Res.5.7).

Obligations related to international cooperation

Parties must consult one another about implementing obligations arising from the Convention concerning transboundary wetlands, shared water systems and the conservation of wetlands and their flora and fauna (Article 5). The COP has adopted several decisions relevant to this objective. Parties should identify important transfrontier wetlands, including those with shared river basins, and prepare and implement joint plans using a catchment approach. They may work under existing watercourse agreements and through cross-boundary water commissions to develop legal and institutional cooperation for management of shared water systems. Range states of wetland-dependent migratory species should endeavour to coordinate species and habitat conservation measures, as supported by the Memorandum of Understanding concluded between the Bonn Convention Secretariat and Ramsar Bureau.

Wise use in an international perspective also concerns financial and technical assistance for wetland-related programmes and projects. Donor Parties should support the inclusion of wise use components in development cooperation programmes and ensure that EIAs are carried out prior

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The Ramsar Convention, National Laws and Policies for Wetlands: A Case Study of India

India joined the Ramsar Convention in 1981 and has listed Keoladeo National Park, Chilika Lake, Loktak Lake, Wular Lake, Harike Lake and Sambhar Lake as Ramsar sites. Despite this, India lags behind in the implementation of the Convention.

The need for a national wetland policy spelling out the broad guidelines for wise use of wetlands has been articulated by the community of wetland scientists, activists and non-governmental organisations (NGOs) in the country. In the past year, there has been considerable thinking and debate on the legal and institutional aspects of wetland management. A draft national wetland strategy and a corresponding action plan was prepared by the Indira Gandhi Institute of Development Research. It is telling that this initiative has come from the NGOs, individuals working on different aspects of wetlands and from a few officials of the government in their individual capacities.

The Ministry of Environment and Forestry (MoEF) is not keen on the review of laws related to wetlands; it wants to shift the onus of management of wetland sites to the state governments. It also holds that a national wetland policy is not really needed "as there is an existing conservation strategy on the environment within the Ministry and this also extends to wetlands". Officials of this ministry feel that such a national policy would not be helpful because protecting wetlands is mainly the responsibility of the state governments. The MoEF prefers to confine its role to merely assessing the performance of state government agencies. The problem is compounded by the shortage of funds. Wetlands conservation is a low priority item in the national budget.

The major environmental problem in India is the increasing pressure of population on available natural resources. Scarcity of urban land (especially in the city of Mumbai) has

caused a mad rush to reclaim wetlands. Lack of civic amenities in overcrowded cities leads to widespread pollution of these shrinking water bodies. Construction of ports, harbours, thermal power plants and industrial units in fragile coastal areas and callous disregard of environmental safeguards by the authorities implementing such 'development' projects have also damaged wetland systems. For instance, the Environmental Impact Assessment (EIA) Notification of 1994 requires the authorities to conduct EIA before sanctioning a development project, but vested interests often manipulate the exercise for their selfish ends. Although the National Steering Committee on Wetlands, Mangroves and Coral Reefs has highlighted the urgency of evolving a coherent national wetland policy there is resistance to the formulation of such a policy.

As environmental cases that come before the courts reveal, there is blatant and recurrent violation of laws relating to conservation of ecosystems. Despite landmark judicial decisions favouring conservation and sustainable use of the natural resources, the concerned government agencies have been either evasive or tardy in the implementation of such laws.

Environmental laws in general and those pertaining to the wise use of wetlands in particular are fraught with loopholes. The Coastal Regulation Zone Notification issued under the central Environment (Protection) Act, 1986 illustrates the point. This notification to regulate coastal development has been circumvented by interested private parties such as industrialists and by even government agencies.

In India, although conservation and wise use of wetlands falls within the ambit of the MoEF, decisions of ministries and departments concerned with agriculture, fisheries, water resources, surface transport, power generation, tourism, ocean develop-

ment and the like also impinge on the use of wetlands. And since legislation on land falls under the jurisdiction of state governments, several agencies at the state level are also involved in decision making over wetlands. Many of these agencies do not realise the need for the special treatment of wetlands.

In India, there are four categories of laws applicable to wetlands: laws of the central government, laws of the state governments, municipal laws and customary laws. Some local customs that have contributed to wetlands conservation have been undermined by other conservation oriented laws. The Wildlife (Protection) Act of 1972 of the central government which provides for the establishment of sanctuaries and national parks works against customary laws which determine wise use. It bans grazing and prohibits human impact on the wetland ecosystem after it is declared as a national park. This restriction has subverted wise use of wetlands, generated social tensions and uprooted local communities from their ecological niches.

The experience from Keoladeo National Park — an important Ramsar site and a national park — is important in this context. In 1981, following its designation as a wetland and as a National Park, grazing and fuelwood collection from the area was banned. People of the surrounding villages who used to take their herds of buffaloes to graze in the area openly defied the ban leading to skirmishes between the police and the people. It was only later that some scientists of the Bombay Natural History Society discovered that such a blanket ban on grazing was injurious to the park. They found that regulated grazing was necessary to prevent aquatic macrophytes from colonising the wetland.

There is an urgent need to correct some glaring defects in the otherwise

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World Heritage Convention: A study of the legal status of selected sites listed under the World Heritage Convention

The 1972 World Heritage Convention Concerning the Protection of the World Cultural and Natural Heritage was adopted in 1972 by the General Conference of UNESCO and entered into force on 17 December 1975. Its primary mission is to define and conserve the world's heritage, by drawing up a list of sites whose outstanding values should be preserved for all humanity, and to ensure their protection through a closer co-operation among nations. By signing the Convention, each country pledges to conserve the sites situated on its territory, some of which may be recognized as World Heritage.

The Convention defines the kind of natural or cultural sites which can be

considered for the World Heritage List, and sets out the duties of States Parties in identifying potential sites and their role in protecting and preserving them. At present, 156 States are party to the Convention. There are 582 properties from 114 States Parties currently inscribed on the World Heritage List: 445 cultural sites, 117 natural sites, and 20 mixed (cultural and natural) sites. States endeavour, so far as possible, and where appropriate for each country, to adopt a general policy to integrate the protection of their heritage into comprehensive planning programmes and to take appropriate legal, scientific, technical, administrative and financial countermeasures (Article 5).

The ELC is conducting a survey of national legislation applicable to natural sites in 25 states listed on the World Heritage List. The survey seeks to determine:

- the legal designation of each site;
- specific legal instrument(s) in force;
- other legal provisions directly relevant to the designation concerned; and
- the legal situation regarding management problems identified.

Even before the survey has been totally completed, some general trends are emerging. The majority of states reviewed grant the highest protection status under national conservation law to the sites identified. Nevertheless, the national legislation relevant to these sites still tends to be sectoral in character. The lack of explicit cross-references between the laws, regulations and decrees often leads to the piece-meal nature of the protection status of natural world heritage sites. Legislation for a protected areas system or an instrument targeted to the management of the world heritage site is usually missing.

The requirement for buffer zones set out in article 44(b)(vi) of the operational guidelines is rarely met. The same is true for management plans called for in article 44(b)(v) of the operational guidelines. The most frequently identified management problem in relation to the examined natural sites is human interference through poaching, illegal agricultural activities or infrastructure projects. This stands in contrast to the selection criteria of integrity required to enlist a natural site, meaning that a site has to show the greatest number of natural characteristics preserved from all human endeavours which are destructive of ecological balance. This leads to the question posed by Mr. Badran, Deputy Director General at the 21st session of the World Heritage Committee in 1997, "How can we ensure that monitoring and conservation of properties become as important as identification, nomination, and inscription?"

One possibility is to critically review national legislation with regard to site-specific problems. Traditional sectoral laws only monitor a small number of human activities, usually through a permit system; these are often blind to the fact that human populations are living around and inside the protected area. Additional resources should be made available to ensure more efficient implementation and enforcement of existing laws. Emphasis should also be placed on the participation of local communities in decision-making and the introduction of economic incentives, such as revenue sharing from entrance fees or sustainable tourism. In addition, as proposed by the operational guidelines, resources should be mobilised to implement the management plan prepared for each site.

— Anja von Rosenstiel
German legal trainee
("Rechtsreferendarin")
assigned to IUCN-ELC
from February to October 1998

... India

sound framework of conservation laws in India. The Wildlife (Protection) Act will have to be suitably amended to treat wetlands as a special category of multiple use areas in which a certain degree of human use is desirable. Rules regarding the regulation of human use will have to be evolved on a case by case basis for each wetland area depending on its carrying capacity.

To cut through the maze of legislation on wetlands and promote their wise use, an apex institution consisting of wetlands experts, NGOs and representatives of local bodies will have to be created to identify and protect wetlands that are ecologically threatened by industries, commercial aqua-culture, mechanised trawling, coral mining and blast fishing.

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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.

CALENDAR C
As of 13 Ja

13-15 Jan	Washington, DC	International Development Conference — Global Meeting of Generations Contact: International Development Conference; (1 202) 884 8580; fax: (1 212) 884 8499; e-mail: idc@idc.org
25-29 Jan	Nairobi	2nd Session of the Persistent Organic Pollutants (POPs) Intergovernmental Negotiating Committee Contact: UNEP Chemicals (IRPTC); tel: (41 22) 979 9111; fax: (41 22) 797 3460; e-mail: j.willis@unep.ch; Internet: http://irptc.unep.ch/pops/
1-5 Feb	Nairobi	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
15-19 Feb	Cartagena, Colombia	6th Meeting of the Open-Ended <i>Ad Hoc</i> Working Group on a Biosafety Protocol 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: http://www.biodiv.org
22-23 Feb	Cartagena, Colombia	Extraordinary Meeting of the Conference of the Parties to the Convention on Biological Diversity Contact: Mr. H. Zedan, 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: http://www.biodiv.org
22-26 Feb	New York	UN Commission on Sustainable Development <i>Ad hoc</i> Working Group (AHWG): Consumption and Protection Patterns Contact: Zehra Aydin-Sipos, Division for Sustainable Development; tel: (1 212) 963 8811; fax: (1 212) 963 1267; e-mail: aydin@un.org; Internet: http://www.un.org/esa/sustdev/
1-5 Mar	New York	UN Commission on Sustainable Development <i>Ad hoc</i> Working Group (AHWG): Oceans and Seas, and Comprehensive Review of the Barbados Programme of Action for the Sustainable Development of Small Island Developing States Contact: Zehra Aydin-Sipos, Division for Sustainable Development; tel: (1 212) 963 8811; fax: (1 212) 963 1267; e-mail: aydin@un.org; Internet: http://www.un.org/esa/sustdev/
9-12 Mar	San José, Costa Rica	Expert Meeting on International Arrangements and Mechanisms Contact: Raúl Solórzano, Ministry of the Environment, Costa Rica, tel: (506) 257 5658; fax: (506) 222 4580
16-27 Mar venue to be determined		4th Session (1st part) of the UN Convention on the Law of the Sea: International Seabed Authority (ISBA) Contact: Division for Ocean Affairs and the Law of the Sea, Office of Legal Affairs; e-mail: doalos@un.org; Internet: http://www.un.org/Depts/los/
20 Mar	Washington, DC	4th Annual International Wildlife Law Conference Contact: Will Burns, Managing Editor, Journal of International Wildlife Law & Policy, 1563 Solano Ave., Suite 193, Berkeley, California 94707; tel: (1 510) 540 0980; e-mail: JIWL@earthling.net
25-26 Mar	Leeds, UK	5th Annual International Sustainable Development Research Conference Contact: Conference Manager, ERP Environment, PO Box 75, Shipley, West Yorkshire BD17 6EZ, UK; tel: (44 1274) 530 408; fax: (44 1274) 530 409
19-30 April	New York	7th Session of the Commission on Sustainable Development (CSD-7) Contact: Zehra Aydin-Sipos, Division for Sustainable Development; tel: (1 212) 963 8811; fax: (1 212) 963 1267; e-mail: aydin@un.org; Internet: http://www.un.org/esa/sustdev/
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) 57251; fax: (39 6) 57052; Internet: http://www.fao.org or http://web.icppgr.fao.org
3-14 May	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/esa/susdev/iff.htm
7-9 May	San José, Costa Rica	Global Biodiversity Forum Contact: Nadine Canning-Wacker, Rue Mauverney 28, CH-1196 Gland, Switzerland; tel: (41 22) 999 0255; fax: (41 22) 999 0002; e-mail: ncw@hq.iucn.org

OF MEETINGS

January 1999

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

10-18 May	San José, Costa Rica	7th Meeting of the Conference of the Parties to the Ramsar Convention Contact: Dwight Peck, Executive Assistant for Communications, Convention on Wetlands, Rue Mauverney 28, CH-1196 Gland, Switzerland; tel: (41 22) 999 0184; fax: (41 22) 999 0002; e-mail: dep@hq.iucn.org
15-18 May	Guntur, India	International Conference on Social Responsibility of Legal Revolution for the Protection of Environment and Human Rights Contact: LEARP India International, 3/1 Brodiepet, Guntur 522002 (A.P.), India; tel: (91 863) 356 528; fax: (91 863) 354 205; e-mail: appaji@SBS.XEEVGA
19-28 May	New York	9th Meeting of States Parties to the UN Convention on the Law of the Sea Contact: Division for Ocean Affairs and the Law of the Sea, Office of Legal Affairs; Mr. Vladimir Jares, e-mail: jares@un.org; Internet: http://www.un.org/Depts/los/
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/
31 May- 2 June	Lemnos, Greece	2nd International Conference on Ecosystems and Sustainable Development Contact: The Conference Secretariat, ECOSUD 99, Wessex Institute of Technology, Ashurst Lodge, Ashurst, Southampton, SO40 7AA, UK; tel: (44 1703) 29 3223; fax: (44 1703) 29 2853; e-mail: wit@wessex.ac.uk; Internet: http://www.wessex.ac.uk
31 May- 4 June	Montreal	4th Meeting of the Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA) for the CBD Contact: Mr. H. Zedan, 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: http://www.biodiv.org
7-9 June	Montreal	Intersessional Meeting on the Operations of the CBD Contact: Mr. H. Zedan, 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: http://www.biodiv.org
7-11 Jun	Rome	13th Session of the FAO Group on Registration Requirements Contact: Gerold Wyrwal, FAO, Viale delle Terme di Caracalla 00100 Rome, Italy; tel: (39 6) 5705-2753; fax: (39 6) 5705-6347; e-mail: Gerold.Wyrwal@fao.org
13-18 Jun	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
14-17 Jun	Rome	14th Session of the Panel of Experts on Pesticide Specifications, Registration Requirements, Application Standards and Prior Informed Consent Contact: Gerold Wyrwal, FAO, Viale delle Terme di Caracalla 00100 Rome, Italy; tel: (39 6) 5705-2753; fax: (39 6) 5705-6347; e-mail: Gerold.Wyrwal@fao.org
5-8 July	Pietermaritzburg, South Africa	African International Environmental Protection Symposium Contact: The Conference Secretariat; fax: (27 331) 420 246, e-mail: soil&pol@sprs.co.za; Internet: http://www.sprs.co.za/
4-8 Oct venue to be determined		Expert Panel on Access and Benefit Sharing Contact: CBD Secretariat, World Trade Center, 393 St. Jacques Street, Office 300, Montreal, Quebec, Canada H2Y 1N9; tel: (1 514) 288 2220; fax: (1 514) 288 6588; e-mail: chm@biodiv.org; Internet: http://www.biodiv.org
2-13 Nov	Buenos Aires	4th Conference of the Parties to the Framework Convention on Climate Change Contact: UNFCCC Secretariat, Martin-Luther-King-Str. 8, 53153 Bonn, Germany; tel: (49 228) 815 1000; fax: (49 228) 815 1999; e-mail: secretariat@unfccc.de; Internet: http://www.unfccc.de
30 Nov- 11 Dec	Dakar, Senegal	2nd Conference of the Parties to the Convention to Combat Desertification Contact: CCD Secretariat, Geneva Executive Center, 11/13 Chemin des Anémones, CH-1219 Châtelaine, Geneva, Switzerland, tel: (41 22) 979 9419; fax: (41 22) 979 9030/31; e-mail: Secretariat@unccd.ch; Internet: http://www.unccd.ch

SITUACIÓN JURÍDICA Y ADMINISTRATIVA DE LOS HUMEDALES EN EL PERÚ

La regulación jurídica de los humedales es algo nuevo en el Perú. En realidad, es a partir de la suscripción de la Convención RAMSAR por el Estado peruano en 1991, que la palabra "humedales" comienza a ser oída y discutida en el país.

La última década, sin embargo, ha demostrado ser bastante exitosa en cuanto a los avances en la política y legislación ambiental en el país. Casi el 90% de la legislación ambiental nacional ha sido aprobada en los últimos ocho años.

Dentro de este contexto, favorable para el tema ambiental en general, la evolución y importancia ganado por los humedales ha sido sin duda importante. El país cuenta hoy con siete humedales inscritos en la lista de la Convención. La palabra "humedales" es regularmente usada en el ámbito político y legislativo, y el país cuenta con una Estrategia Nacional de Humedales aprobada por el Estado, siendo el único país de Sudamérica con un documento de estas características. El Programa Nacional de Conservación y Desarrollo Sostenido de Humedales Perú, que es un consorcio integrado por el Estado, ONGs y organizaciones internacionales, y mecanismos, alternativos a la creación de áreas naturales protegidas, brindan un protección legal especial a los humedales del país.

Sin embargo, pese a los evidentes éxitos en el ámbito político y legislativo, el impacto real de estos esfuerzos aún no termina de cuajar en la práctica, debido a la falta de aplicación de las normas en algunos casos, y también por una alarmante debilidad institucional para actuar en casos específicos que amenazan los humedales del Perú. Esto, hace que el uso y manejo de los humedales nacionales aún no sea del todo eficiente, y que el deterioro de importantes áreas subsista.

Quién es quién en el manejo de humedales

En el ámbito institucional, el tema ambiental en el Perú está organizado sobre la base de las competencias sectoriales asignadas a los distintos ministerios de gobierno. Así, por ejemplo, los recursos de flora y fauna son administrados por el Instituto de Recursos Naturales – INRENA, perteneciente al Ministerio de la Agricultura, y los recursos hidrobiológicos por el Ministerio de Pesquería. Cada Ministerio se constituye en la autoridad nacional ambiental para regular y controlar los recursos y actividades a su cargo.

Existe un órgano coordinador o de enlace de las oficinas ambientales de estos Ministerios, que es el Consejo Nacional del Ambiente – CONAM, quien ha diseñado mecanismos para articular la gestión ambiental de las diferentes oficinas ambientales y conciliar los posibles conflictos de interés que surjan por casos específicos. Estos mecanismos, sin embargo, aún no son ampliamente utilizados.

La gestión de los humedales pasa entonces bajo la competencia de distintos organismos, que tienen facultades para decidir sobre recursos y actividades que dependen o se desarrollan en estos ecosistemas. Sólo en el caso de aquellos humedales declarados como áreas naturales protegidas, existe un encargo de administración a un solo organismo, que es el INRENA. Sin embargo, aún en estos casos, el INRENA sólo asume la competencia para aprobar la planificación de las áreas y decidir o autorizar, en última instancia, los usos permitidos dentro de las mismas; manteniendo en consecuencia los demás ministerios las competencias sobre sus recursos y actividades, aún dentro de las áreas protegidas.

En el caso de los gobiernos regionales y los municipios, las compe-

tencias posibles sobre los humedales son mínimas, dado que estos niveles de gobierno en el Perú no tienen directamente competencias sobre los recursos naturales. Sólo en el caso de los Municipios, existe una competencia clara para regular el tema de agua y desagüe, pero siempre en relación directa a su funcionalidad como servicio público para los centros poblados. En los demás casos, debe asumirse que la competencia sobre cuerpos de agua, marinos o continentales, permanece como una competencia del gobierno central.

En el ámbito de iniciativas privadas, existen esfuerzos importantes para dotar de institucionalidad al tema humedales, a través de la constitución del Programa de Conservación y Desarrollo Sostenido de Humedales Perú. El Programa se estableció en 1992, como una coalición de organizaciones gubernamentales y no gubernamentales, que trabajan de manera mancomunada en la conservación y desarrollo sostenible de los humedales.

El Programa ha tenido importantes logros en sus primeros seis años de actividad, habiendo sido el motor y gestor del proceso de diseño y aprobación de la Estrategia Nacional para la Conservación de Humedales en el Perú, aprobada por la Resolución Jefatural 054/96, el 12/03, y del Plan Maestro de la Reserva Nacional de Paracas (1996); ha ejecutado una serie de Proyectos en algunos de los humedales peruanos, siempre bajo criterios de participación y beneficio a las poblaciones locales; y ha contribuido a la mejor difusión respecto al valor y funciones de los humedales en la sociedad peruana.

La Estrategia Nacional para la Conservación de Humedales

El proceso de elaboración y discusión de la Estrategia se inició en 1992 y duró aproximadamente tres

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Hacia una Ley de Humedales Para Costa Rica

Los Humedales representan para el ser humano una amplia gama de posibilidades para su subsistencia, si son manejados adecuadamente. Sin embargo la práctica nos demuestra que estamos desperdiciando y haciendo desaparecer poco a poco este recurso natural de tanta importancia.

Una de las acciones que impulsa la Convención Ramsar para lograr su implementación es el procurar que se establezcan mayores políticas nacionales de forma independiente o con otras iniciativas nacionales en la conservación del ambiente, además de reunir información sobre el uso de los Humedales, su problemática directrices y orientaciones adicionales, y documentarla con ayuda de la UICN para las Partes Contratantes. Un aspecto fundamental para la aplicación del concepto de uso racional "wise use" es el desarrollo de políticas nacionales en materia de Humedales.

En los últimos años y especialmente desde la ratificación de la Convención Ramsar en 1991 en Costa Rica se viene llamando la atención sobre los Humedales, aún más ya desde la Constitución Política de 1948 y la Ley de Aguas de 1942 el tema del agua y los recursos marinos ha sido tratado por juristas y aplicado en Ministerios e instituciones de la Administración Pública.

Aunque Costa Rica a sido pionera en fomentar políticas de conservación del ambiente, los Humedales enfrentan problemas de conversión ya que se están degradando debido a actividades agrícolas, extracción de sal, ganaderas, acuacultura, deforestación y la demanda de tierras para urbanizaciones. Por lo cual el gobierno particularmente desde la aprobación de la Convención Ramsar a puesto una gran cuota de interés y esfuerzo por fomentar la conservación y el uso racional "wise use" de estos ecosistemas.

La Misión de la Convención RAMSAR es la conservación y el uso racional de los Humedales por medio de la acción nacional y la cooperación internacional como un medio para lograr el desarrollo sostenible en el mundo. En cumplimiento con esta misión el Ministerio del Ambiente y Energía de Costa Rica ha desarrollado con el apoyo técnico de la Unión Mundial para la Naturaleza, Oficina Regional para Mesoamérica desde 1994 la Estrategia Nacional para la Conservación de Humedales. La Estrategia de Conservación de Humedales impulsa la protección y el uso racional necesarios para mantener estos ecosistemas, sus recursos y beneficios.

El proyecto se ha avocado principalmente a la producción de herramientas apropiadas (técnicas, legales, administrativas) para los grupos meta tales como organizaciones gubernamentales, gobiernos locales, ONGs, sectores privados y usuarios, con el fin de alcanzar el uso racional – wise use – de los recursos de estos ecosistemas. En el área de legislación y políticas sobre Humedales el Proyecto ha venido trabajando y acumulado experiencias valiosas y lecciones aprendidas importantes que servirán de base para un trabajo futuro así como de ejemplo para otros proyectos similares en la región mesoamericana. Entre estas lecciones se pueden citar:

- Existe un mayor desconocimiento de los ecosistemas de Humedales y sus regulaciones legales de lo que en un inicio se esperaba.
- Se necesita una mayor inversión de tiempo en actividades de capacitación legal asegurando la participación real de las comunidades vecinas y usuarias de recursos de Humedales.
- El trabajo coordinado, interdisciplinario e interinstitucional es indispensable
- El proceso de sistematización de experiencias debe ser planifica-

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años, a través de distintos talleres, reuniones y documentos. El éxito principal de contar con una Estrategia aprobada ha sido sin duda haber dotado a los humedales de una herramienta legal de planificación que ha permitido captar Cooperación Técnica y Financiera y desarrollar una serie de proyectos definidos por el Plan. Ha otorgado institucionalidad y autonomía a los humedales, siendo éstos ahora percibidos como ecosistemas singulares que cuentan con disposiciones propias.

El problema principal de la Estrategia y del manejo de los humedales en general, sin embargo, sigue siendo la falta de compromiso efectivo por las autoridades para desarrollar los Proyectos y actividades priorizadas, y otorgar una protección legal efectiva a los humedales. Esto se puso de manifiesto en el reciente caso de la construcción de una fábrica de fideos junto a la Zona Reservada Pantanos de Villa, humedal

inscrito en la lista RAMSAR. En este caso, el INRENA aprobó un Estudio de Impacto Ambiental presentado en forma extemporánea y que no reunía siquiera los requisitos formales y técnicos establecidos por el propio sector, ni cumplía con las normas legales ambientales peruanas.

Pese a estos problemas, en el balance siempre queda una sensación positiva. Y el futuro se presenta con buenos augurios, ya que las bases legales para encaminar el manejo de humedales están dadas.

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...Costa Rica

do desde el principio del proyecto, esto permite una mayor riqueza en la recopilación de los hechos para mejorar acciones futuras.

- Se necesita una mayor efectividad al transmitir los ejemplos existentes de experiencias en la implementación de la legislación ambiental, con resultados positivos.
- Se deben hacer coincidir las etapas de recopilación y análisis de la legislación con otras iniciativas de recopilación de información en el campo técnico tales como el mapeo y los talleres diagnósticos sobre el manejo y la conservación de Humedales.
- Para el éxito del proyecto es indispensable mantener la comunicación clara y constante entre todos los sectores involucrados.

Por medio de la implementación de la Estrategia y a través de numerosos talleres con amplia participación de los sectores gobierno, ONGs, sociedad civil y empresa privada se determinó que la legislación existente tal y como se ha explicado anteriormente se presta para confusiones, traslapes de competencias administrativas y con ello la imposibilidad de aplicar un manejo racional de Humedales.

Razón por la cual se plantea la necesidad de tener un Proyecto de Ley de Humedales el cual nace como un posible mecanismo para solucionar la incerteza jurídica que viven los Humedales en la actualidad y con ello lograr la utilización racional de estos ecosistemas, que sirven en muchos casos como materia prima para la generación de recursos económicos.

Además en el objetivo operativo del Plan Estratégico de la Convención Ramsar 1997-2002 se establece la necesidad de revisar y cuando sea necesario corregir la legislación nacional y supra-nacional, instituciones y prácticas de las partes contratantes

con el fin de asegurar que los lineamientos sobre Uso Racional de los Humedales sean aplicados.

El Proyecto de Ley de Humedales se desprende precisamente del cumplimiento por parte del Estado Costarricense de esta acción por medio de la cual se revisó la Legislación, las competencias institucionales y las prácticas de las poblaciones y empresa privada. Así mismo en cumplimiento a la acción 2.1.2 del Plan Estratégico de la Convención el Estado Costarricense a procura establecer políticas nacionales, que se desprenden del aprendizaje generado en la Estrategia Nacional de Conservación de Humedales y la Estrategia de Biodiversidad que dio como resultado importante la creación del Instituto Nacional de Biodiversidad (INBIO) y la implementación de un novedoso canje de deuda para conservación.

En la actualidad la versión final de "Ley de Humedales" va a sufrir algunos cambios menores para ajustarla a la nueva legislación promulgada en 1998 en Costa Rica y será introducido a la Asamblea Legislativa de Costa Rica y donde comenzará el proceso de aprobación como Ley de

la República. Todavía el proyecto puede sufrir algunos cambios ya que dentro de la Asamblea legislativa pueden existir algunas mociones de cambio, pero se espera que sea un proyecto de consenso que no presente grandes problemas para su aprobación.

Es importante rescatar de este proceso que la idea de elaborar un proyecto marco de ley de Humedales es identificada a través del proceso de análisis de la legislación, políticas y prácticas consuetudinarias, no es resultado únicamente de una decisión política o de un grupo de interesados sobre el tema. Lo que persigue este proyecto es adecuar el convenio Ramsar a la realidad nacional como un instrumento para lograr aumentar calidad de vida los habitantes de Costa Rica.

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...Legal Obligations

to the implementation of large-scale projects to develop wetlands. Parties which request international assistance should ensure, as a priority, that the proposed projects and programmes do not involve damage to wetlands and are compatible with the wise use obligation.

Conclusion

There is no blueprint for legal and institutional frameworks to implement wise use. Some countries rely mainly on regulatory controls and public ownership of wetlands, whilst others favour contracts, incentives and partnerships to promote wetland

stewardship by private owners and users, including local communities. In a broader perspective, the COP has repeatedly emphasized the importance of cross-sectoral wetland planning, coordination and consultation from transboundary through to local level and – as an essential first step – the elimination of legal or economic incentives to wetland destruction or degradation.

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SHORT SUMMARY ON MONTREAL BIOSAFETY MEETING

The fifth session of the Ad Hoc Working Group on Biosafety was held in Montreal from the 17th to the 28th of August, 1998. This session was planned as the penultimate session before a final negotiation at Bogota in February 1999, for presentation of the Biosafety Protocol at the next meeting of the Parties to the Convention on Biodiversity. The central provisions of the proposed Protocol would create a procedure under which international shipment of transgenic organisms, identified as "living modified organisms," will be made only after receiving "advanced informed agreement" from the recipient nation. The scope of application of the Protocol, the situations under which such advanced informed agreement should be obtained, and the others obligations that should be included in the agreement are points still in contention.

Much of the negotiation in Montreal focused on achieving resolution of relatively minor conflicts; many important issues were left open in the form of alternative bracketed texts. Thus, it is unresolved whether the advanced informed agreement obligations should apply to products derived from transgenic organisms. It is unresolved whether there should be provisions requiring nations explicitly to address socio-economic considerations or to create strategies to address the concerns of those nations which have lost exports as a result of the development of substitute products through biotechnology. There remain several different options for liability regimes for harm derived from transgenic organisms, including a "zero-option" that would not address the issue, a version putting off negotiation of a liability regime for the future, a version creating a fund, and a version defining a liability rule. Perhaps most important, because it will affect the meaning of the Protocol should relatively few nations actually ratify it, is failure to agree how the Protocol should relate to the Phytosanitary Code of the Uruguay Round, which can be interpreted as already defining quite liberal standards for trade in geneti-

cally modified organisms. Provisions relating to trade with non-parties, including a possible prohibition on such trade, are in brackets, as is a provision that would ensure that the Protocol would not affect existing international obligations, such as those of the Phytosanitary Code.

These are important points of difference, and reflect strongly opposed perspectives on the wisdom of agricultural biotechnology. Thus, if the negotiation is to succeed, it will be important for someone to take the lead in a discussion with a number of representative nations to develop a reasonable package of compromises on these various issues. This will have to be done well before February, so as to allow the final details to be negotiated in time for signature. It is not at all clear that there is a com-

mitted delegation or group of delegations to take the lead in such an effort — particularly since a number of the participating nations do not see the need for a treaty on trade in transgenic organisms. Hence, it seems unlikely that there will be an agreement on schedule. And, even if there is an agreement, if it significantly restricts the development of agricultural biotechnology, there will likely be an important number of nations from both the developed and the developing world who will choose not to ratify it.

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... Steering Committee

cellence in West and East Asia, and a co-operative agreement is being pursued between CEL and the government of Puerto Rico to support the development of environmental law projects in the Caribbean. The Steering Committee also discussed developing an environmental law programme for Latin America, and the project proposal "Mainstreaming Environmental Law in Africa."

The discussion on the current regional structure of CEL was continued (see ELP Newsletter, May-September 1998, page 17). To study the adjustment of the current CEL regions towards a more practical and programmatic framework, each Vice Chair has been requested to prepare a paper on establishing sub-regions within their region.

The Steering Committee also discussed the IUCN regionalisation process. The Committee expressed concern about the strength of the ELC in the regionalisation process, and expressed the view that a strong Secretariat was needed to maximise the Commission's work in the regions.

Draft "Code of Conduct"

CEL member Claire Shine presented the draft "Code of Conduct on Transboundary Protected Areas in Times of Peace and Armed Conflict", a joint initiative of CEL and the IUCN World Commission on Protected Areas (WCPA). The Chair reported that the draft "Code of Conduct" has already proved useful in efforts to resolve the border dispute between Peru and Ecuador in the Amazon region. Both countries have agreed to establish a transboundary protected area on the border between the two countries. The Steering Committee proposed that a small CEL working group be constituted to clarify ways CEL and WCPA can work to move the "Code of Conduct" forward.

Other Business

70 new members were admitted to CEL. The next Steering Committee meeting is tentatively scheduled to be held in Bonn 22-24 March 1999. A colloquium, followed by the opening ceremony of the new ELC offices, will be held on 23-24 March.

— NWI

Regional

ELP Environmental Law Service

South America

During the first IUCN South American Conservation Congress, the South American CEL group, with the support of ELS, met in Termas de Puyehue, **Chile**, 19-21 November to further research on selected areas of environmental law.

Working groups were set up on environmental impact assessment, protected areas and private sector, access to justice, protection of water sources and biodiversity. They are developing a strategy to create a programme to support their activities.

Africa

The "Lusophone Forum on Legal Drafting and Environmental Law" was held in Praia, **Cape Verde** 23-27 November with the participation of a representative from each Portuguese-speaking nation. The Forum was implemented in collaboration with SEPA, the Executive Secretariat

for the Environment from the Environment Ministry of Cape Verde, and UNDP in Cape Verde. The aim of the Forum was to exchange views on legal drafting and environmental law in the Portuguese speaking world. It comprised a conference during the first two days and a training seminar for Cape Verdian government officials and civil society representatives.

ELC and SEPA have signed an agreement on a joint workplan for 1999, which includes training seminars on environmental law and the regulation of the country's framework law.

Ethiopia is holding a workshop at the end of December to discuss the final draft of the Environmental Proclamation. The ELC has been associated with the Environmental Authority of Ethiopia for over two years in the development of this law. The text should be submitted for governmental approval in 1999.

The project to develop a Forestry Protocol to the **Southern African Development Community (SADC)** Treaty, in collaboration with the SADC Forestry Sector Technical Coordination Unit, is underway. The first consultants from the 14 nation members of SADC are being contracted to prepare a national review on legislation related to forestry in their respective countries.

West Asia

Yemen's Environmental Protection Council and the ELC have started working on a draft by-law on protected areas and a draft by-law on access to genetic resources. Mr. Sultan Al-Jarady, who worked with ELC on a section of a legal assessment of Yemen's biodiversity-related laws, and Mr. Adwadh Bahamish, a CEL member who worked with UNOPS on drafting a model biological resources access agreement, are working on the respective draft by-laws.

– MAC

Congreso Internacional de Derecho Rural y de los Recursos Naturales

Raúl Brañes y Mario F Valls de la Comisión de Derecho Ambiental de la UICN participaron en el *Congreso Internacional de Derecho Rural y de los Recursos Naturales*, organizado por la Universidad del Museo Social Argentino del 23 al 26 de agosto de 1998. Ambos representantes expusieron las actividades que desarrollan la UICN y su Comisión de Derecho Ambiental, y los avances del Acuerdo Internacional sobre Ambiente y Desarrollo (International Covenant on Environment and Development) y la Carta de la Tierra, así como los problemas y las soluciones que las nuevas tendencias del comercio internacional y las

organizaciones comunitarias (U.E, MERCOSUR, N.A.F.T.A.) ofrecen para el desarrollo y la conservación de la naturaleza.

Las principales recomendaciones del congreso fueron:

- No existe una antinomia entre desarrollo y naturaleza. Ambos términos se complementan. No hay desarrollo sin una base natural que lo sustente.
- La naturaleza precedió al hombre y provee el ámbito y el material básico para su desarrollo, lo sostiene y condi-

ciona.

- La humanidad demanda progresivamente un mayor y variado uso de la naturaleza, y esa demanda imperativa, somete a la naturaleza a un constante desgaste y deterioro y genera de desechos. Pero la oferta de naturaleza es limitada y el hombre no puede crear naturaleza.
- La naturaleza tiene sentido y valor en función del ser humano. Si bien la humanidad ha procurado no contraponer el desarrollo del hombre a la pre-

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servación de la naturaleza, algunas veces, como en los últimos años, un crecimiento mal orientado comenzó a dañar la naturaleza y hacer temer que la naturaleza no alcance a proveer todos los elementos que ese crecimiento requería.

- La reiterada denuncia del deterioro de la naturaleza llamó la atención sobre un matiz del desarrollo que la humanidad estaba descuidando.
- La contención de deterioro ambiental requiere tomar medidas a gran escala a cargo de toda la sociedad y sus ór-

ganos.

- El individuo necesita instrumentos jurídicos para defender su derecho al desarrollo y a la preservación de la naturaleza.
- La acción del individuo y de la comunidad sobre todas las variables del desarrollo debe apuntar a superar a cualquier antinomia y conjugar con armonía el desarrollo con la naturaleza.

El Congreso recomienda:

- Identificar perfeccionar y estimular practicas productivas amigas de la naturaleza.
- Armonizar las exigencias ambientales con las razones pro-

ductivas.

- Adoptar políticas y estrategias que alienten cambios en los patrones de producción y consumo para alcanzar el desarrollo sostenible y una mejor calidad de vida.
- No justificar el deterioro de la naturaleza con las necesidades de desarrollo.
- Pero tampoco usar el argumento de la conservación a ultranza de la naturaleza para limitar el desarrollo, sino hacer que el desarrollo proteja y mejore a la naturaleza.

– *Mario F. Valls*
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New Parties to Major International Environmental Treaties

Ratification Status as at 22 October 1998

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

Togo - 15.04.1998
 Democratic People's Republic of Korea - 21.07.1998
 Guatemala - 13.08.1998

Total number of Parties: 155

United Nations Convention on the Law of the Sea, adopted on 10.12.1982:

Suriname - 09.07.1998

Total number of Parties: 127

United Nations Framework Convention on Climate Change, adopted on 09.05.1992:

Dominican Republic - 07.10.1998
 Tonga - 20.07.1998

Total number of Parties: 176

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

Belize - 23.07.1998
 Azerbaidjan - 10.08.1998
 Niue - 14.08.1998
 Romania - 19.08.1998
 Cook Islands - 21.08.1998
 Samoa - 21.08.1998
 Viet Nam - 25.08.1998
 Fiji - 26.08.1998
 Indonesia - 31.08.1998
 Kiribati - 08.09.1998
 Guatemala - 10.09.1998
 Japan - 11.09.1998
 Tuvalu - 14.09.1998
 Nauru - 22.09.1998
 Tonga - 25.09.1998

Total number of Parties: 142

ELC Staff News

Daniella Montag, a Belgian national, has replaced Joy Kochukunju as Office Manager. She worked for many years at the Canadian Embassy here in Bonn. Welcome to the ELC team!

Torsten Wäsch, Documentation Officer - Literature Library, will be leaving the ELC at the end of December. After more than six years at the Law Centre, Torsten will be moving to Kuala Lumpur with his wife and daughter. We wish him all the best!

Mauricio Cysne, a Brazilian-Portuguese lawyer, will replace Patti Moore as Legal Officer. Mauricio worked for IUCN in Guinea-Bissau until June of 1998 when political unrest broke out in that country.

Anja von Rosenstiel was assigned to IUCN-ELC from February until October 1998 as a German legal trainee. Anja assisted with the draft publication *Conservation on Biological Diversity and the Law* and was also involved in a project to analyse the legal status of selected natural sites nominated under the World Heritage Convention.

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 530 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 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; email: secretariat@elc.iucn.org.

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