

# Promoting CITES-CBD Cooperation and Synergy

Proceedings of the Workshop  
20 – 24 April 2004  
Isle of Vilm, Germany



Convention on  
Biological Diversity

CBD



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Proceedings of the Workshop  
20 – 24 April 2004

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## Preface

Enhancing cooperation and improved coordination between the various multilateral environmental agreements is one of the major challenges in the next few years in order to meet the 2010 target agreed at the United Nations World Summit on Sustainable Development in 2002. In particular intensified cooperation between two of the most well known international biodiversity related agreements, the Convention on Biological Diversity (CBD) and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), can help to achieve this ambitious target.

Decision VII/26 adopted by the 7<sup>th</sup> Conference of the Parties of the CBD in February 2004 calls for such an enhanced cooperation between the CBD and other biodiversity related conventions such as CITES in order to strengthen existing cooperative arrangements, to enhance synergies, to reduce inefficiencies, and to improve the implementation of both conventions. This approach is entirely supported by the German government and the European Community. In this context, the results of the workshop on promoting CITES/CBD cooperation and synergy, held at the International Academy for Nature Conservation Isle of Vilm in April 2004, become even more important. The preparation of the workshop itself was an excellent example of cooperation with both governmental and non-governmental bodies working together towards a common goal.

This volume provides the international community with the background papers circulated to all participants before the workshop, the supporting letters from both Secretariats and the outcomes of the meeting itself. Many rather specific and concrete fields of action were identified at Vilm which, if implemented on the national and international level, would significantly improve the efficiency of both conventions.

However, much work remains to be done in all fora of both conventions to achieve this ambitious goal. It will first of all be up to the delegations at the 13<sup>th</sup> Conference of the Parties to CITES to acknowledge the outstanding importance and chances of this process and to carry forward the most urgent pending decisions. Furthermore, as a matter of priority the discussion on matters of synergy between both conventions must be brought to the attention and should remain on the agenda of all CITES technical committees as well as the various bodies of the CBD in the forthcoming next years.

The German government has always put high emphasis on implementation as well as further development of both the CBD and CITES. Therefore, the workshop has been structurally, conceptionally and financially supported from the beginning.

Any follow-up processes will be definitely looked at again with greatest sympathy as was the case for the workshop on Vilm in April 2004.

Prof. Dr. Hartmut Vogtmann

President of the Federal Agency for Nature Conservation

## **Acknowledgements**

The convening of this workshop and communication of its outcomes would not have been possible without the strong support and guidance provided by many individuals and institutions. Thanks are due first and foremost to the organisations that provided core financial support for the workshop, Bundesamt für Naturschutz (BfN), Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ) GmbH, the UK Department for Environment, Food and Rural Affairs (Defra) and the United Nations Environment Programme. We are also grateful for additional support for the workshop's organisation provided by the IUCN Environmental Law Centre, the IUCN Species Survival Commission Sustainable Use Specialist Group and WWF Germany.

Thanks are due to the members of the workshop Steering Committee, which included representatives from TRAFFIC, IUCN – The World Conservation Union, Flora & Fauna International, BfN and GTZ, for their contributions to the workshop's design, documentation and overall organisation. Thanks are also due to UNEP and the CITES and CBD Secretariats, who also played an active and supportive role in shaping the workshop.

We are most grateful for the excellent facilitation of the workshop provided by Tom Hammond of IUCN - The World Conservation Union, and for the efforts of Lizzie Wilder and Martin Jenkins, who worked tirelessly to capture the workshop discussions and produce the final workshop report.

We also wish to thank the staff of the International Academy for Nature Conservation, Vilm, whose handling of the workshop logistics and our stay on Vilm ensured that the workshop was both productive and enjoyable. Special thanks in this regard are due to Gisela Stolpe and Wiltrud Fischer, who saw the process through from start to finish, including producing these proceedings.

Finally, we owe our very special thanks to the workshop participants, many of whom travelled long distances to join the workshop in Vilm. Their willingness to share their time, ideas and insights was the key ingredient of the workshop's success.

Teresa Mulliken, TRAFFIC International

Chair, CITES CBD Workshop Steering Committee

## 1 Letters from the Secretaries

### 1.1 Letter from HAMDALLAH ZEDAN, CBD-Secretariat



## Convention on Biological Diversity

Secretariat

13 April 2004

Dear workshop participants, dear friends,

The Conference of Parties to the Convention on Biological Diversity (CBD) has recognized the importance of close cooperation with other biodiversity conventions, and in particular with the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), in order to enhance synergies in areas of mutual interest.

At its seventh meeting, recently held in Kuala Lumpur, Malaysia, the Conference of the Parties adopted a provisional framework for goals and targets to enhance the evaluation of progress in the implementation of the Strategic Plan of the Convention and its objective to achieve by 2010 a significant reduction in the current rate of loss of biological diversity. One of the targets included by the Conference of the Parties within this framework is that no species of wild fauna or flora be endangered by international trade. The setting of this target, which expressly reflects the mandate and work of CITES, makes close coordination and synchronization of activities even more important.

Since inception of the Memorandum of Understanding between the Secretariats of CBD and CITES, in 1996, a number of cooperative activities as well as consultations on pertinent issues were already carried out. However, given the challenge of the 2010 target, it is obvious that more needs to be done both at national and international levels to enhance synergy and coherence among the biodiversity conventions.

Against this background, the initiative of the organizers and sponsors of this workshop is very welcome. It is also most timely as the seventh meeting of the Conference of the Parties requested the Executive Secretary to invite the secretariats of the other four biodiversity conventions to form a liaison group to enhance coherence and cooperation in their implementation. I am sure your work will lend support to such a group and to its important task.

I wish you all a pleasant stay as well as a successful and productive meeting, and look forward to your valuable conclusions.

Hamdallah Zedan  
Executive Secretary



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## 1.2 Letter from WILLEM WIJNSTEKERS, CITES-Secretariat



CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES  
OF WILD FAUNA AND FLORA



Geneva, 16 April 2004

Dear colleagues and friends,

I would have preferred to welcome you to this important workshop in person but I hope you will understand that the preparation of the many documents that are to be submitted to the 13<sup>th</sup> meeting of the Conference of the Parties, the deadline for which as you know is May 5<sup>th</sup>, prevents me from leaving the Secretariat in this rather hectic period.

I am very grateful to the organizers and sponsors of this workshop, who have been able to bring a group of people together with great expertise and experience in the workings of both CITES and CBD.

The issue of synergies between Multilateral Environmental Agreements (MEA's) is one that has been discussed in many fora and on many occasions, but unfortunately, and to my great frustration, hardly ever with concrete results.

That is why this workshop is so important. It is indeed high time for us to pave the way for common approaches to common questions. How can we reduce biodiversity loss? How can we better contribute to sustainable development? How can we better contribute to poverty reduction? How can we better do this together?

Synergy in the area of conserving the world's biodiversity is of course a matter for Convention Secretariats, but in my view it is an even greater challenge for Parties to biodiversity-related Conventions.

Allow me to give you an example. Don't you find it perplexing that in the CITES context there has so far been no reference whatsoever to the CBD and WSSD adopted target to significantly reduce biodiversity loss by 2010?

If you carefully look at decisions that have been adopted by the different COPs of biodiversity-related MEA's, it is really surprising to see how little common ground there is for synergies, interlinkages, collaboration and cooperation.

But the scope for synergies and practical co-operation is enormous.

Why then doesn't this happen?

That is for this workshop to find out, but in my view we urgently need to establish a better basis for coherent decisions by Parties to our Conventions; decisions that focus on common, major themes. If Parties deal with global biodiversity problems in different Conventions in a interlinked and consistent way, the need for collaboration and co-operation among Parties, regions, Secretariats will automatically increase.

- 2 -

The reason that there are several Conventions, each covering its own aspects of biodiversity issues, is of course that we have been addressing these issues in an isolated way. Over the last thirty years, every biodiversity-related problem received its own ad hoc instrument. There were good reasons then to do it that way, but there are perfect reasons now to look at biodiversity in a more holistic manner.

What we need to do is identify the tools that are available to us under the different Conventions. These tools are based on each Convention's specific area of activity and competence. I don't believe they are conflicting, overlapping or duplicative, but I do believe that we urgently need to start using all possible combinations of these tools in such a way that they efficiently and effectively contribute to solving global biodiversity problems together.

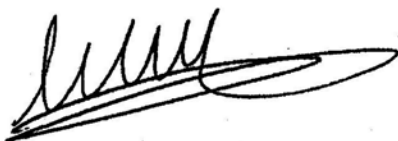
I wish to believe I am a pragmatic and practical person and I therefore hope that this workshop will lead to practical recommendations that will actually change things on the ground and in meeting rooms in particular. By the way, did you participate in CITES COP 12 as well as CBD's COP 7? You didn't and you don't know your colleague in the other COP? Is that maybe part of the problem?

This workshop has the potential to start changing the situation.

There is so much to do, let's do it together.

I wish all of you a pleasant stay on the island of Vilm, but first and foremost a very successful workshop. I am impatiently looking forward to your results.

With best personal wishes,

A handwritten signature in black ink, appearing to read 'Wijnstekers', with a large, sweeping flourish extending to the right.

Willem Wijnstekers

Secretary-General

## **2 Workshop Report**

### **2.1 Introduction**

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and the Convention on Biological Diversity (CBD) are amongst the most widely accepted and well-known international biodiversity related agreements. The two Conventions address international concerns about biodiversity loss. Each reflects the period in which they were developed in both their focus and in their approach.

CITES rose out of concern during the 1970s that the international wildlife trade was driving numerous species to extinction, taking the view that strong controls on international trade were required in order to address this threat. Nearly 20 years later, CBD was created to address the use of and threats to biodiversity more widely, and includes development as well as conservation concerns. It includes a specific objective related to “the fair and equitable sharing of benefits arising out of the utilization of genetic resources” and related provisions regarding access to genetic resources.

Studies of the relationships between the two Conventions indicate that the overall goals of CITES and the CBD, while not identical, are broadly compatible. In particular, both Conventions are concerned with ensuring that the use of wild species is sustainable. Given CITES’ powerful and specific trade measures and the comprehensive policy remit of CBD, implementation of both Conventions should be mutually beneficial. In fact, CITES trade provisions provide a potential vehicle for managing trade in fauna and flora in the context of achieving CBD-related goals. Equally, CBD provides a potential vehicle for supporting the conservation and sustainable use of CITES-listed species. In a wider context, both Conventions can contribute to the target agreed by the World Summit on Sustainable Development of achieving by 2010 a significant reduction in the rate of biodiversity loss. The CBD COP has established goals and sub-targets for focal areas in order to help assess progress towards the 2010 target. One of these refers directly to international trade (Target 4.3: “No species of wild flora or fauna endangered by international trade”).

Several mechanisms have been established to promote greater co-operation in the implementation of CITES and CBD at the international level. These have included agreement of a Memorandum of Understanding between the two Convention Secretariats, references to the respective Convention within various decisions and resolutions, and in the case of CITES, adoption of a specific resolution devoted to co-operation and synergy with CBD. However, thus far there has been relatively little interaction among the various Convention decision making or implementing processes.

As at the international level, there are numerous opportunities for co-operation in the implementation of CITES and CBD at the national level. The level of co-operation among agencies responsible for implementing these Conventions varies from country to country, but in general, it would appear that there are significant opportunities for increased collaboration.

## **2.2 Convening of an Expert Workshop Promoting CITES-CBD Cooperation and Synergy**

The importance of encouraging greater cooperation between CITES and CBD was highlighted in discussions among TRAFFIC, ResourceAfrica, IUCN – The World Conservation Union and Flora & Fauna International (FFI), who agreed to cooperate in the convening of an expert workshop on this issue.

The proposed workshop received significant support from the German Federal Agency for Nature Conservation (BfN) and German Agency for Technical Cooperation (GTZ). Financial support was also provided by UNEP, the UK Department of Environment, Food, and Rural Affairs (DEFRA) and WWF Germany. The Government of Germany offered to host the meeting at BfN's International Academy for Nature Conservation on the Isle of Vilm, Germany.

The workshop, which took place from 20-24 April 2004, was organised by a Steering Committee, including representatives from TRAFFIC (Chair), FFI, IUCN – The World Conservation Union, BfN and GTZ. UNEP and the CITES and CBD Secretariats had an active and supportive role in shaping the workshop.

The workshop was designed to:

- Provide for a free and full discussion of CITES and CBD compatibility and complementarity
- Identify areas of possible synergy, and mechanisms by which such synergy could be developed;
- Produce a clear set of recommended actions aimed at improving the ability of both Conventions to achieve their goals; and
- Enable communication of these outcomes to a wider audience in a way likely to prompt a positive response within the implementing processes of both Conventions.

Participants were drawn from a broad range of experts from governmental, intergovernmental and non-governmental backgrounds active in the processes of one or both Conventions. A participant list is attached as Annex 1. In order to support the goal of free and full discussions, participants were invited in their individual rather than institutional capacities, and the workshop convened in the spirit of "Chatham House Rules." This and other aspects of the workshop greatly benefited from the facilitation provided by Tom Hammond of IUCN – The World Conservation Union.

## **2.3 Workshop Structure**

The workshop combined a series of plenary presentations and discussions with working groups focusing on specific priority areas identified during the workshop by the participants. Plenary presentations were made on the following topics:

- UNEP's role in promoting cooperation and synergy between the biodiversity related conventions (ROBERT HEPWORTH)
- CITES-CBD synergy – perspectives from CITES (MARCEIL YEATER)
- CITES-CBD synergy – perspectives from CBD (MARKUS LEHMANN)

- Relating the operational structures and decision-making of the two conventions (MARTIN JENKINS)
- Potential links between CBD framework tools and CITES (TOMME YOUNG)
- CITES and CBD approaches to the trade in wild animal species used for meat and other animal products (TERESA MULLIKEN)
- CITES non-detriment findings and CBD sustainable use principles (ALISON ROSSER)
- The Global Strategy for Plant Conservation as an example of increasing CITES-CBD synergy (SARA OLDFIELD)
- Access and benefit sharing, potential for mutual supportiveness between CITES and CBD implementation (VICTORIA LICHTSCHEIN)

In addition, case studies on CITES-CBD implementation were provided for the following countries:

- Bolivia (MARIO BAUDOUIN)
- Canada (CAROLINA CACERES)
- Colombia (SARAH HERNANDEZ)
- India (SHEKHAR KUMAR NIRAJ)
- Madagascar (CLAUDINE RAMIARISON)
- Seychelles (JOSEPH FRANÇOIS)

## **2.4 Workshop Outcomes**

Workshop participants agreed that there was a need to increase cooperation and synergies in the operations of CITES and CBD at the national and international level. Many added that a personal goal for attending the workshop was to increase their knowledge of the Conventions and achieve better synergies in their own work. They noted that convening a process to address this issue outside the formal structures of the Conventions provided a new and potentially useful approach.

They made a number of general observations:

- There are differences between the Conventions:
  - CBD is a framework Rio Convention
  - CITES is a regulatory pre-Rio Convention
- Nonetheless, the two share much common ground, which should be built on
- Increased collaboration incurs costs as well as providing benefits
  - Care should be taken that the latter exceed the former
  - Specific problems to be solved should be identified

- Collaboration and/or synergy should take place at the following levels:
  - National
  - Regional
  - International – through Convention institutions and processes (not only the Secretariats)
- A pragmatic, practical approach should be adopted, using and supporting existing tools where possible
- Targets and indicators provide a useful focus

They also noted that while synergy was undoubtedly desirable, there were a number of actual or potential divergences between the two Conventions or obstacles to achieving synergy. These included:

- Different perceptions and approaches under the two Conventions
- The need for mandates from both Convention COPs, for initiatives arising from one Convention potentially involving the other
- Lack of resources
- Lack of continuity or stability in national and international institutions
- Lack of appropriate national legislation
- *Ex-situ* commercial captive breeding, conservation benefits and benefit-sharing

The group identified a series of mechanisms for achieving greater synergy and/or overcoming actual or potential obstacles as well as a number of potential areas of synergy (including areas where both Conventions have common goals).

Identified mechanisms were:

- Institutional and other mechanisms for coordination at national level
- Comprehensive implementation of CBD Article 6 through NBSAPs, legislation and other national strategy plans
- Case studies leading to best practice guidelines
- Capacity building, such as training and exchange of experiences
- Improved information transfer nationally and internationally
- Improved coordination of representation at Convention meetings
- Biodiversity-related MEA liaison group
- Proposed Global Partnership on biodiversity
- Biodiversity Clearing-House Mechanism

- UNEP
- Existing decisions and resolutions, MoU and Joint Work Plan
- Potential development of a more consistent global regime for MEAs

Initially identified areas of potential synergy were:

- Sustainable use (including the Addis Ababa Principles and Guidelines, CITES Article IV, non-detriment findings, the Significant Trade process, adaptive management, policy and incentives)
- Reporting
- The Global Strategy for Plant Conservation
- The 2010 World Summit on Sustainable Development biodiversity target
- GEF funding
- Incentives for research and monitoring
- The Ecosystem Approach
- Invasive Alien Species
- Access and Benefit Sharing
- Coordination of CBD with conservation of CITES-listed species
- Coordination of area-based systems of management with species-based systems of management
- Relationship with other processes and agreements
- Taxonomy
- Compliance and enforcement
- Labelling and Green Certification
- Licensing procedures
- Wild meat and other NWFPs
- The Millennium Development Goals

After discussion, the group formed working groups on the following topics:

- Sustainable use
- Access and benefit sharing
- Linking site and species-based approaches and coordination of CBD with conservation of CITES-listed species



In addition efforts were made to capture the group's thinking on other potential areas of synergy for subsequent presentation to the group as a whole for further discussion and elaboration of the way forward.

Many of the issues discussed were the subject of vigorous and lively debate. Strenuous efforts were made to achieve consensus. This was achieved in almost all cases. However, not all participants necessarily agree with all the statements made here and in a very small number of cases a strongly dissenting view is held by a very few. On the basis of these discussions participants have agreed that the following observations, suggestions and conclusions are put forward.

## **2.5 Concrete Proposals for Some Cross-cutting Mechanisms Identified During the Workshop**

For several of the topics discussed, it was proposed that information be collected through, for example, case studies and collection of best practices and such information disseminated. As a way to do this, each COP at its next meeting could ask Parties, IGOs, NGOs and other stakeholders to submit examples of best practices and other experiences related to improving the coherent implementation of both CITES and CBD and make those widely available. These best practices could deal with examples of national coordination, concrete project implementation and so forth in different areas of synergy.

Based on these submissions and other relevant information (for example outputs from expert workshops), both Secretariats could collaborate with other partners to identify some main lessons learned, and develop advice or guidance to Parties and other organizations in implementing activities that are mutually supportive of the objectives of both Conventions and that improve their coherent implementation. This could be discussed at each COP during its next session.

Another issue identified by participants was the need for institutional cooperation at international level, for example when participating in other fora including those concerned with fundraising. One way to achieve this is through the part of CBD COP decision VII/26 dealing with the proposed liaison group between biodiversity MEAs, intended to enhance coherence and cooperation in the implementation of the biodiversity commitments. Participants therefore suggest that the CITES Secretariat respond positively to this and join the liaison group. This liaison group would increase collaboration among several biodiversity MEAs as well as enhance a joint position of CBD and CITES with regard to other organizations such as WTO and FAO but also on issues such as fundraising and the GEF.

It was also widely noted that the development of complementary CITES and CBD national legislation (through, for example, National Biodiversity Strategies and Action Plans) should be encouraged.

In addition to these cross-cutting mechanisms, many specific measures or mechanisms were proposed to cover specific issues or areas of synergy.

### **2.5.1 Sustainable use**

CITES and CBD have a shared goal of biodiversity conservation. Both CITES and CBD need tools and strategies to achieve the sustainable use of biodiversity and, since their work overlaps and is complemen-

tary, need to share their experiences and develop these tools together. This should lead to effective and efficient implementation of their respective requirements at various levels.

#### Changes desired to achieve synergies in sustainable use

- Higher priority should be given to synergies and collaboration both at the national and international level.
- Strengthening of sustainable development and benefits for local communities in the CITES context, and strengthening of species conservation issues in the CBD context. Both of these need to occur at the national and international level
- Improvement in communication
- More effective implementation of CITES non-detriment findings, and more effective deployment of sustainable-use tools in CBD
- Development of integrated management for sustainable use and conservation of species
- Parties to CBD and CITES and Convention bodies should interpret their respective mandates in a manner that facilitates cooperation

#### Methods & mechanisms to enhance synergy between CITES and CBD, for sustainable use

##### *National level*

- In order to achieve more coherent government policy there should be: more coordination at national level, more interaction, collaboration, information sharing, review of decisions between national focal points
- National focal points should be encouraged to be part of the implementing ministry; closer relationships should be developed between CITES and CBD staff
- There should be cooperation for capacity building at national level
- Funding should be sought to facilitate national coordination through the FAO National Forest Programme Facility
- National biodiversity strategies and action plans (through appropriate line ministry) should recognize the overlaps between the concepts of non-detriment and sustainable use & incorporate wildlife trade policy into their strategies
- Synergy should be promoted at national level through reviewing the need for improvement of legislation and other policy instruments and mechanisms, and institutions

### *COP level*

- CITES COP 13 should establish a process to examine the Addis Ababa Principles and Guidelines, the Ecosystem Approach and environmental assessment guidelines and consider which elements might be incorporated into non-detriment findings and other provisions of CITES
- CITES should consider adopting the CBD definition of sustainable use as a working definition
- CITES should invite CBD to provide further guidance to GEF in implementation of CBD Target 4.3
- CBD should invite CITES to provide input and guidance with respect to CBD decisions relevant to sustainable use
- CITES COP 13 and CBD COP 8 should take these issues forward

### *Technical Committees (CBD SBSTTA, CITES Animals and Plants Committees)*

- Technical committees should interact and work together, and develop joint programmes of work
- Technical committees should collaborate on the development of indicators of sustainability
- CITES should be involved at national and international level, with regard to indicators for assessing progress in implementation of the CBD strategic plan; relevant issues should be included on the agendas of the CITES technical committees
- Holistic country-based Significant Trade processes should be encouraged (also for CITES COP to discuss).
- There should be a mechanism to source or commission work by the CITES Committees, to provide information and case studies to CBD

### *Secretariats*

- The CBD Secretariat should explore how these issues can be taken forward to CBD COP 8
- There should be institutional coordination (CITES and CBD) at the international level when participating in other fora (e.g., WTO, ITTO, CPF)
- The two Conventions should cooperate on fundraising
- The CBD Executive Secretary should be asked to ensure that CITES issues are addressed in the Collaborative Partnership on Forests through a wild species initiative and to explore the possibility of including participation of the CITES Secretariat
- The Convention Secretariats should create materials and form associations with universities, for tertiary education
- CBD and CITES should collaborate in assessing how policy instruments and mechanisms, in particular land and resource tenure systems, and property rights affect sustainability of species harvest (CITES-listed species)

- Overlaps and commonalities between the CITES checklist for non-detriment findings and CBD sustainable use principles should be examined
- The joint work plan should be updated to incorporate the above

#### *All levels*

- CITES and CBD should develop joint work plans at the national, regional and international levels
- CITES should recognize and help test CBD sustainable use principles
- CITES should recognize issues of sustainable development, equity issues, local management and participation in implementation
- CBD should give specific attention to CITES-listed species
- CBD should learn from and consider using CITES tools and history, such as CITES regulatory mechanisms
- CBD should receive experience from CITES (case studies)
- There should be increased cooperation on information sharing
- Case studies should be developed on non-detriment findings and sustainable use, reflecting both positive and negative experiences, along with sample non-detriment findings and adaptive management, and these should be made available, perhaps through a database (consider CHM, GBIF, or other mechanisms), joint publications and joint workshops.
- CBD should recognize that through the Significant Trade process, CITES works on sustainable harvest at the national level, and encourage collaboration with CBD focal points in this area
- There should be collaboration at the regional level, which may include making use of UN agencies and other intergovernmental regional offices
- There should be cooperation to promote awareness, education and public outreach regarding sustainable use

#### Constraints on the development of effective synergies regarding sustainable use

- Institutions are constrained by their legal mandates; institutions should endeavour to interpret their mandates differently or change their (national-level) legal mandates
- Different implementing agencies at both the national and global levels do not work sufficiently together
- Human and financial resource constraints
- Apparent lack of political commitment for synergy in some cases
- Lack of awareness and understanding of the benefits of sustainable use

- Few documented examples and case studies of sustainable use
- Lack of common financial strategies and mechanisms
- Lack of funding for CITES committees to deliver on recommendations

### **2.5.2 Access and benefit-sharing**

Access and benefit-sharing (ABS) is a CBD issue. As such, access and benefit-sharing is not present in CITES. However trade with genetic resources takes place. An international regime on ABS is still in the process of negotiation under CBD.

#### Changes desired to achieve synergies in ABS

- There should be mutual support between the Conventions concerning ABS
- CITES can help ABS implementation under CBD and vice versa

#### Constraints on achieving synergies in ABS

- CITES authorities are looking for easier administrative processes to fulfil their duties (with regard to vaccines, tissues, faeces, urine, DNA, cell lines, etc)
- Actual or potential ABS claims make the CITES process more difficult to implement (e.g. exchange of museum specimens, misinterpretation of ABS by CITES Authorities)
- Many Parties to CBD lack adequate access legislation for implementing even non-mandatory ABS. Moreover, some countries do not have sufficient national legislation to implement CITES. The relationship between ABS and CITES permitting is therefore not clearly defined
- There is lack of clarity of treatment of pre-CBD specimens and samples (museum specimens, live species, cell lines, etc.)
- Presence of illegal specimens of CITES-listed species in circulation (parental stock, cacti seeds, orchids, etc.)
- Uncertainty about the dimension of worldwide trade in samples of CITES-listed and non-CITES species (legal and illegal)

#### Methods or mechanisms to achieve synergies in ABS

- It is critical for CITES implementation authorities and CBD-related authorities at the national level to have a full understanding of ABS issues and how they might be affected by CITES implementation and vice versa. To address this need, joint workshops and capacity-building activities should be undertaken to address key issues including:

- The nature and role of the Bonn Guidelines
- The nature of the ABS provision for pre-Convention specimens and the special provisions for botanic gardens, zoos, herbaria and other collections
- Concerns relating to inconsistencies among or lack of clarity in national CITES and CBD related legislation, and NBSAPS
- Attempts to distinguish commercial and non-commercial use (comparing CITES and CBD)
- The nature of enforcement against illegal commercial uses
- The CITES Parties should recognise the validity of a statement in the CITES permits that a CITES permit is not an ABS certificate
- The need should be accepted for interim solutions to overcome uncertain situations until CBD ABS provisions are fully implemented
- CBD should be encouraged to make progress in the creation of internationally recognized certification for ABS
- Technical CITES committees should be mandated to evaluate the amount and diversity of trade in biological samples derived from CITES species (e.g. stem cells, cell lines, rDNA, etc.) and the kind of use
- Communication and cooperation between CITES and CBD should be enhanced, not only between Secretariats, but also by more participation of Parties and Technical Committees in dialogue
- National CITES Authorities should coordinate with CBD/ABS Authorities where CITES permits are potentially relevant to ABS concerns
- UNEP-WCMC could include in its CITES trade monitoring activities more detailed information regarding new CITES-listed species of trade and share it with CBD
- WCO should be asked to develop more specific codes for wildlife products
- Importing and exporting countries should use existing monitoring regulations to assist in detecting trade in non-CITES species

#### Best practice examples

- A proposal submitted to CITES COP 11 to exempt certain biological samples for medical research triggered for the first time a consultation process between the CBD and CITES Secretariats to clarify that any decision taken under CITES should be compatible with the obligations of the Parties to CBD
- International Plant Exchange Network (IPEN) programme of EU Botanical Gardens for exchange of plant material for non commercial purposes<sup>1</sup>

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<sup>1</sup> An informal presentation was made at the workshop by Michael Kiehn on International Plant Exchange Network for Non-Commercial Purposes related to ABS and other issues raised by the CBD

### **2.5.3 Linking site-based, thematic and species-based approaches**

CITES is a species-focused convention, whereas CBD combines area and thematic approaches. Both CITES and CBD implementation would benefit from greater linkages aimed at ensuring that both Conventions work in harmony at the global, regional and national level for their mutual and coherent implementation. CITES processes could make a strong contribution to achieving the objectives of the CBD in the context of the design and implementation of its programmes of work and other policy instruments. The CBD could provide critical context to the work of CITES, for example, to supporting recovery of threatened species.

#### Constraints

- Some of those concerned primarily with CITES implementation perceive the CBD as an obstacle or a threat rather than as an asset providing added value
- Some of those concerned primarily with CBD implementation perceive CITES as irrelevant, if not an obstacle, to achieving CBD objectives
- Differences between Parties in their perception of the advantages of increased cooperation between CITES and the CBD at the national and international levels
- Lack of cooperation and coordination at all levels, and particularly the national level
- Lack of information flow and communication hinders the coherent implementation of both conventions
- Insufficient institutional capacity, human and financial resources at the national level to achieve more effective synergy
- Exchange of scientific specimens among researchers is sometimes not supported by the current relationships among the Conventions

#### Changes desired to achieve synergies

- CITES implementation benefits from the experiences and knowledge provided from within the CBD
- CBD processes more effectively integrate CITES related concerns, processes and experience
- Appendix I listings more effectively support species conservation objectives through being informed by information generated through CBD processes
- Linkage by CITES to some of the working models developed through the CBD, and processes considering socio-economic as well as biodiversity conservation issues

Methods and mechanisms to enhance synergy

- Enhance attention to CITES-listed species in designing and implementing CBD programmes of work in support of achieving shared objectives
- Ensure that site-based CBD-related activities are employed to reinforce CITES-related management and trade controls, especially for Appendix I species
- Encourage CBD implementing agencies to use CITES listings as a tool for achieving CBD objectives for species in international trade
- Include the CITES Appendices in the suite of tools used to decide priorities for site-based conservation action, including selection of protected area sites
- Ensure better information sharing and integration between the decision making processes of SBSTTA and the CITES Animals, Plants and Standing Committees, and the Conferences of the Parties, through, for example, advance consultation on agenda points of common interest, co-meetings of the Committee chairs, etc.
- Make better use of the CBD Clearing House Mechanism to exchange information and implement actions on matters mutually agreed between both conventions
- Integrate CITES implementation in the development and implementation of National Biodiversity Strategies and Action Plans (NBSAPS)
- Extract the parts of the thematic programmes of work on CBD relevant to CITES-listed species, and mandate the development of proposals for co-operation based on them, using, the example, the Global Strategy for Plant Conservation model and the related partnership
- Explore the potential for greater use of other partnership approaches
- Evaluate the potential role of CITES-listed species as indicators under CBD processes, including the 2010 target, and for other purposes
- Identify recovery actions for threatened species as a priority activity for CBD in applying the ecosystem approach
- Integrate the Ecosystem Approach and Sustainable Use Principles into CITES capacity-building workshops at the national and regional level
- Hold CITES/CBD joint ‘synergy workshops’ (with other multi-lateral environmental agreements as relevant) on specific issues
- Create or make use of national coordination mechanisms between CBD, CITES and other related instruments
- Recognize the mutual benefit to both conventions of national and international collaboration in research and monitoring
- Parties to incorporate evidence from CBD processes before considering/deciding on listing proposals



- Explore the potential for the liaison group of biodiversity conventions to contribute to enhanced CITES-CBD synergies
- Suggest that critical components of the CITES Strategic Plan and accompanying work plan (e.g. objective 2.12, 4.32 in the current work plan) include appropriate reference to use of specific CBD tools and participation in relevant CBD meetings
- Recognise the mutual benefits to both conventions of national and international collaboration and stimulate joint research and monitoring efforts

#### Best practice examples

- Devil's Claw (*Harpagophytum* spp.)
- Vicuña (*Vicugna vicugna*)
- Guaiacum (*Lignum vitae* spp.)
- Markhor (*Capra falconeri*)

## **2.6 Additional Results Emerging From Plenary Discussions**

### **2.6.1 Contribution to the 2010 WSSD biodiversity target**

Further to the mission of the Strategic Plan of the CBD adopted by COP 6, the World Summit on Sustainable Development (WSSD) in its Plan of Implementation agreed that measures should be in place by 2010 to achieve a significant reduction in the current rate of biodiversity loss. The purpose of the CITES Strategic Vision through 2005, “to ensure that no species of wild fauna or flora becomes or remains subject to unsustainable exploitation because of international trade”, is clearly consistent with this target.

The WSSD Plan of Implementation further noted that CBD was a key instrument in helping meet the 2010 target. For the purposes of assessing progress towards it and for the future evaluation of progress in the Strategic Plan, the Parties to CBD have agreed a provisional framework for goals and targets.

Participants recognized that there were significant areas of potential synergy between the two Conventions in meeting the WSSD 2010 target. Such synergy would best be achieved through improved coordination and implementation of the two Conventions at national level.

Goal 4 of the CBD provisional framework is “Promote sustainable use and consumption”. There are three targets under this goal:

- Target 4.1** Biodiversity-based products derived from sources that are sustainably managed, and production areas managed consistent with the conservation of biodiversity.
- Target 4.2** Unsustainable consumption, of biological resources, or that impacts upon biodiversity, reduced.
- Target 4.3** No species of wild flora or fauna endangered by international trade.

### Suggested methods for improving synergy in meeting the WSSD 2010 biodiversity target

Participants proposed that the CITES COP might consider including a specific reference to the WSSD 2010 target in any Strategic Plan beyond 2005 that it might adopt. It further noted that the part of Target 4.3 in the CBD provisional framework concerning flora was already addressed in the Global Strategy for Plant Conservation and that it had been recommended that CITES act as the lead coordinating entity in this regard. CITES and CBD should explore possibilities to establish similar processes for wild fauna.

### **2.6.2 The Global Strategy for Plant Conservation**

The Global Strategy for Plant Conservation (GSPC) was agreed by COP 6 of CBD. The Strategy sets out 16 action-oriented targets for the conservation and sustainable use of plant biodiversity to be achieved by 2010. It provides a framework for policy formulation and a basis for monitoring progress in achieving five broad objectives:

- a) Understanding and documenting plant diversity
- b) Conserving plant diversity
- c) Using plant diversity sustainably
- d) Promoting education and awareness about plant diversity
- e) Building capacity for the conservation of plant diversity

GSPC Target 11 is directly linked to CITES. This target states: *No species of wild flora endangered by international trade*. It is clearly consistent with the main purpose of the CITES Strategic Plan: “To ensure that no species of wild fauna or flora becomes or remains subject to unsustainable exploitation because of international trade”.

In taking forward the GSPC, it has been recommended that CITES act as the lead coordinating agency for the promotion and implementation of Target 11 at a global level. The CITES Plants Committee discussed the issue at its Thirteenth Meeting held in Geneva in August 2003 and agreed that CITES contributes at least in a minor way to most of the 16 Targets of GSPC. Preliminary discussions suggested how CITES could help specifically to deliver Target 11. Subsequently a stakeholder consultation exercise for delivery of this Target was undertaken in early 2004 by Fauna & Flora International (FFI) on behalf of the CITES Plants Committee. COP 7 of CBD welcomed the decision of the Plants Committee to contribute to the work of the GSPC.

### Suggested ways of increasing synergy in implementation of the Global Strategy for Plant Conservation

Participants also agreed that GSPC provides an excellent opportunity for synergy between CBD and CITES. They proposed that a clear mandate be sought from the CITES Parties at COP 13 to take forward specific activities for the delivery of GSPC Target 11 in a programme of work coordinated by the CITES Plants Committee with an appropriate budget allocated.

### **2.6.3 The Ecosystem Approach**

The Ecosystem Approach delineates in its 12 principles the way in which conservation and sustainable use of biological diversity should be implemented under the CBD. Their scope incorporates a number of considerations which have not traditionally been considered in CITES but which are important in attaining sustainability. In particular these include taking into account the relationship to local actors (Principles 2 and 12).

Article IV of CITES requires that exports of CITES-listed species must be monitored so as to ensure the role of the species in its ecosystem; therefore CITES provisions already incorporates important elements of the Ecosystem Approach.

Both CBD and CITES are interested in attaining the conservation of biodiversity, but while CBD, through the Ecosystem Approach emphasises the integral nature of sustainable development and conservation problems and their solutions, CITES focuses mainly on a species by species analysis. The Vilm Meeting recognised that the working of CITES is necessary for the generation of benefits from the use of biodiversity, and thus contributes to the attainment of CBD's goals or objectives.

#### Suggested ways of increasing synergy through the Ecosystem Approach

The meeting considered that both Conventions would benefit from a higher level of communication on this issue and the development of joint programmes of work in order reduce possible sources of conflict and to increase areas of cooperation.

### **2.6.4 Invasive alien species**

Workshop participants recognized that the legal mandate of CITES does not extend to invasive alien species. CITES does not provide a mechanism for controlling international trade in invasive species and it is not possible to add species to the CITES Appendices on the basis of their invasive characteristics. However, there was broad agreement among the participants that mechanisms, information and experience developed under CITES could make an important contribution to national and international efforts to control the international movement of potentially invasive species.

#### Suggested ways of increasing synergy in dealing with invasive alien species

- The CITES COP might wish to take note of the CBD's Guiding Principles on IAS and encourage Parties to consider the Principles in their implementation of CITES.
- Parties should consider the potential invasiveness of species in making import and export decisions involving live specimens.
- CITES could review existing Resolutions, for example those on disposal of confiscated live specimens and ranching/ex-situ breeding operations to ensure those resolutions and their implementation take account of invasive species risks.

- Parties could examine how experience gained and/or mechanisms established to implement wildlife trade controls under CITES could be applied in implementing the recommendations in the CBD Guiding Principles with respect to prevention of species invasions.
- The CITES Secretariat might prepare a brief analysis of the capacity of CITES to address invasive alien species as a contribution to the work of the CBD's Ad Hoc Technical Expert Group on IAS identifying pathways, as well as gaps and inconsistencies in the international framework relating to invasive alien species.
- CITES might also accept the offer to collaborate with The Global Invasive Species Programme.

#### **2.6.5 Compliance and enforcement**

Participants proposed the initiation of regular exchange of information and experience between CITES and CBD, at the national level, on compliance and enforcement matters. This could then lead to the identification of priorities and mechanisms for practical cooperation in the future.

#### **2.6.6 Taxonomy**

Recognising the prime importance of taxonomy in the effective operation of both CITES and CBD and observing that there has been a continuing decline in resources allocated, the group proposed investment in this area.

Participants suggested that CITES and CBD collaborate in the identification and support for species-oriented research tools and mechanisms (such as the Global Taxonomy Initiative, CITES Nomenclature programme and products and Target 1 of the Global Strategy for Plant Conservation).

#### **2.6.7 Incentives for research and monitoring**

Participants proposed that CITES and CBD cooperate:

- To assist in implementation of Principle 6 of the Addis Ababa Principles and Guidelines on Sustainable Use.
- To support and facilitate collaborative research and monitoring of species and ecosystems by national institutions
- To help secure the sustainability of local and national institutions working on CITES-listed species and their ecosystems.

### 2.6.8 Harmonisation of reporting

Following the recommendations of a workshop in October 2000 attended by eight Convention Secretariats (including CBD and CITES) and convened by UNEP, four pilot projects have been carried out in Ghana, Indonesia, Panama and Seychelles to test a variety of approaches to the harmonisation of national reporting under the biodiversity-related conventions, funded by UNEP<sup>2</sup>

Eight Conventions and International Programmes (CCD, CITES, CBD, IWC, Ramsar, WHC, Cartagena-SPAW and MAB) were covered by one or more of the pilots. CITES was included in all the pilots and CBD in four of them.

The pilot reports as a whole demonstrated that:

- a) The 'modular' approach to harmonised reporting is practical and should be replicable in both developed and developing countries.
- b) As well as facilitating more collaborative working between convention focal points at national level, efficient application of harmonised reporting should also release scarce resources for other conservation-related activities.
- c) Further progress in realising the benefits of harmonised reporting depends on synchronisation of reporting cycles and the development of reporting formats to facilitate the modular approach.

Participants were encouraged that there had at least been some tangible progress on harmonised reporting in the shape of the four pilot reports (available at: [www.unep-wcmc.org](http://www.unep-wcmc.org)). It was proposed that:

- As the next meeting due in the conference cycle, the 13th COP of CITES should be asked to give a clear mandate to allow Parties to meet their biennial reporting obligations under a harmonised format to be agreed with the governing bodies of other biodiversity-related conventions.
- Successive COPs of CBD and the other biodiversity-related conventions should be asked to meet their reporting obligations under a harmonised format.
- UNEP should continue to convene and facilitate the process and seek further endorsement for this by governments at the next UNEP Governing Council in February 2005.
- UNEP should convene a follow-up workshop to consider the outcomes of the four pilot studies and refine the guidelines for the parties.
- One or more developed and further developing countries should also conduct pilot studies of harmonised reporting with effect from January 2005, taking into account the results of the follow-up workshop.

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<sup>2</sup> UK co-funded the Indonesian pilot project

### **2.6.9 GEF and other financial strategies**

Participants suggested that Parties, with support of the two Secretariats as appropriate, pursue opportunities for GEF and other co-funding of activities that create and enhance synergies between the two Conventions at national and regional level. UNEP should be encouraged to support this process.

Participants noted in particular that CBD COP 7 invited the GEF to provide support to developing country parties for the implementation of activities to achieve and monitor progress towards implementation of the Strategic Plan of the Convention, and suggested that COP 8 could provide further guidance to the GEF with regard to the implementation of Goal 4.3 of the framework for the evaluation of progress towards the implementation of the Strategic Plan. CITES Parties were encouraged to address proposals to the GEF in this context.

CITES COP 13 may wish to consider providing input to CBD COP 8 in this respect.

Participants noted that the Parties to the Conventions should look for alternative sources of funding for activities promoting synergies.

## **2.7 Next Steps**

The draft meeting report was accepted by the group as reflecting the outcomes of the meeting. It was agreed that an electronic copy would be circulated immediately to all participants in order to allow the opportunity for any final editorial comments, with the goal of completing and then making publicly available the final document as quickly as possible. Comments were also requested on the working drafts of all the background documents, to be reflected in the final workshop proceedings.

BfN has kindly agreed to publish the full workshop proceedings of the meeting, to include the workshop report, background papers and case studies presented, final agenda, and list of participants. These proceedings should be available within four months, and will be circulated to the workshop participants, focal points for both CITES and CBD, other organizations and made available via the internet.

The workshop concluded with a brainstorming session to identify and clarify potential follow-up activities and how they might be taken forward. Suggestions for future actions included:

- holding a side event on CITES-CBD synergies at CITES COP 13 and CBD COP 8;
- exchange of information on CITES-CBD synergies via an informal contact group and the internet;
- national and regional workshops to enhance mutual understanding of CITES, CBD and the potential for greater synergies; and
- identify and communicate the suggested actions targeted at specific institutions.

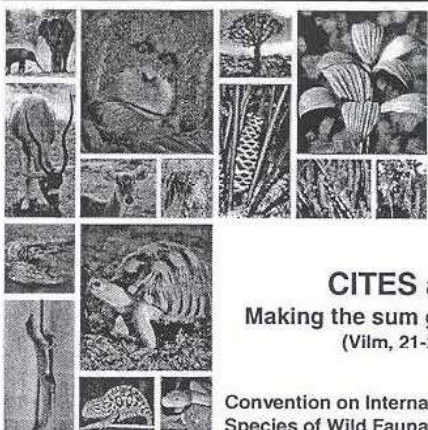
Participants stressed that existing processes, for example the committees of the two Conventions, should be used as much as possible to achieve the aims identified, rather than creating new structures.

Overall, participants felt that the workshop had provided a excellent opportunity to share ideas, develop new links and potential partnerships and identify areas for future action as individuals, as well as through their respective institutions, and through further collaboration. There was great interest in seeing concrete actions taken to follow-up on the many suggestions and proposals made, and participants offered to share the workshop results with their own organizations and networks to stimulate further action.

### 3 Presentations


#### 3.1 CITES-CBD Synergy – Perspectives from CITES, MARCEIL YEATER

www.CITES.org




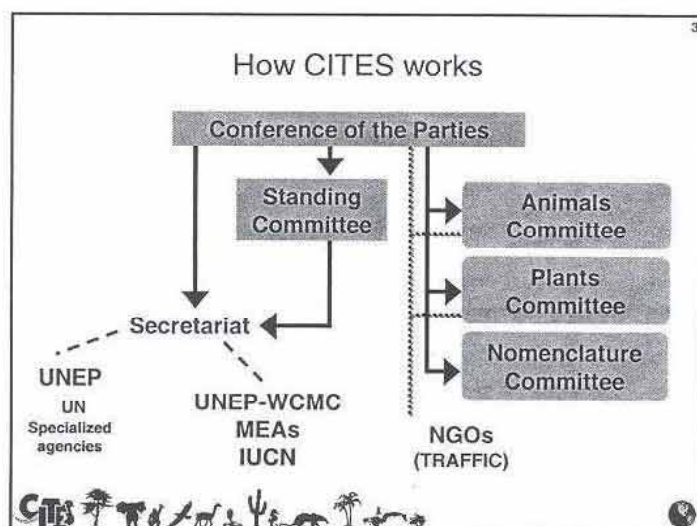
**CITES and CBD:**  
Making the sum greater than its parts  
(Vilm, 21-24 April 2004)

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




The purpose of CITES

- As stated in the Strategic Vision, the purpose of the Convention is to ensure that no species of wild fauna or flora becomes or remains subject to unsustainable exploitation because of international trade
- CITES provides tools for achieving this through the regulation of international trade in specimens of listed species through a system of permits and certificates
- Increasingly, internal harvesting and trade controls have been reviewed under CITES because of their close link to international trade

CITES in context

- The Strategic Vision forms the basis for the Convention's participation in the wider international nature conservation arena since the 1992 Earth Summit and includes issues such as:
  - stewardship of natural resources and their use at sustainable levels;
  - safeguarding of wildlife as integral to the global ecosystem on which all life depends;
  - the need for deeper understanding of the cultural and economic issues at play in producer and consumer countries; and
  - wider involvement of civic society in the development of conservation policies and practices







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### CITES in context



- Effective CITES implementation could contribute towards achieving Millennium Development Goal 1 on poverty reduction
  - To significantly reduce poverty and promote development it is essential to achieve sustained and broad-based economic growth; trade is an important engine of growth
  - Trade conducted in accordance with CITES provisions is by definition not detrimental to the survival of species in the wild or to their role in the ecosystem
  - Even for Appendix-I species, in which commercial trade is generally prohibited, some level of trade is allowed under the Convention (i.e. captive-bred or artificially propagated specimens or hunting trophies)

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### CITES in context



- CITES is closely linked to Millennium Development Goal 7 on ensuring environmental sustainability
  - CITES is a means towards integrating the principles of sustainable development into country policies and programmes and reducing the loss of environmental resources
  - CITES is also a means towards managing species and indirectly their ecosystems for environmental sustainability; these ecosystems provide services that sustain human livelihoods

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### Brief chronology of CITES-CBD linkages

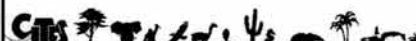

- 1975 – CITES enters into force
- 1994 – Secretariat's Strategic Plan seeks intensified cooperation with CBD
- 1996 – MoU concluded
- 1998 – Resolution Conf. 10.4 on cooperation and synergy with CBD
- 2000 – Strategic Vision (Goal 5 to increase cooperation); CoP11 Doc. 11.12.3 on cooperation with CBD; Dec. 11.166 on bushmeat
- 2001 – Joint work plan concluded
- 2002 – Dec 12.22 on wildlife trade policies and economic incentives

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### Specific example – sustainable use principles

- Included in joint work plan
- CITES attended three meetings and contributed knowledge and experience to development of principles
- Lack of human/financial resources prevented attendance at last meeting + SBSTTA
- Sustainable use principles and guidelines adopted at CBD/COP7 are important to CITES
- CITES/CoP13 should formally recognize these principles through a Resolution
- These principles should be used within CITES

### Specific example – economic incentives

- Included in joint work plan
- Technical staff of CITES and CBD secretariats regularly share information, thoughts, experience
- Both participated in related activities of partners such as UNEP and OECD
- CITES Secretariat attended CBD meeting but CBD Secretariat unable to attend CITES meeting
- CITES now seeking more concrete examples of economic incentives which could help CBD as well; suggested link between wildlife trade policies and biodiversity strategies; CITES and CBD also have cooperated in relationship with WTO



### Specific example - bushmeat

- Included in joint work plan
- CITES Bushmeat Working Group established in 2000, CBD invited to participate
- CBD expressed interest and designated focal point but was never able to participate
- CBD created a parallel process to which BWG might contribute but close and effective collaboration did not develop
- BWG has now finished its work and draft Resolution on Trade in Bushmeat will be considered by CoP13; recommends range of measures on harvesting, consumption and trade; recognizes that CBD has important role



### Specific example – improved reporting

- CITES and CBD have participated in UNEP efforts related to harmonized reporting and will be addressing six action points agreed by Environmental Management Group
- Draft CITES biennial report format drew on CBD, CMS and Ramsar formats
- Funds within a national biodiversity project were used to improve a country's CITES permit issuance, monitoring and reporting



### Specific example – institutions


- Where same national focal point handles both CITES and CBD, it is easier to enhance synergy
- Where there are different focal points, coordination needs to be ensured to make policies in both conventions consistent and compatible
- Synergy can be enhanced also in countries which have national committees that regularly bring together focal points for CITES, CBD and other MEAs
- The existence of biodiversity legislation (e.g. Australia and South Africa) may help to enhance institutional/policy synergy as well



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### Specific example – capacity building

- CITES and CBD have participated together in national/international workshops convened by others but no real synergy has been attempted
- Approaches to capacity building reflect differing emphasis on operational versus policy matters, so scope for joint approach is unclear
- Should be beneficial, however, to share experience and tools




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### Overall assessment

Mixed results so far:

- General commitment made to cooperation and several implementing steps taken by secretariats (e.g. MoU, work plan, technical level contact, invitations to meetings, etc.)
- Cooperation efforts between secretariats have not been sustained, though, and may have lacked sound basis in terms of mutual priority and resources
- Activities of UNEP, IUCN and other partners have involved both conventions
- Some countries have used institutional and legislative means to coordinate their efforts to implement both conventions




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### Conclusion

A new approach is needed, which


- Takes account of characteristics and competencies of each convention
- Focuses on the biodiversity problems that need to be solved
- Uses lessons/input from national level as a basis
- Aims at efficient as well as effective cooperation and synergy



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### Characteristics from CITES perspective


CITES	CBD
• Operational treaty + Appendices	• Framework treaty + protocol(s)
• Covers international trade in listed species	• Covers ecosystems, species and genetic resources
• 27 staff + about 5 million USD annual budget	• Approx. double human, financial resources +GEF
• 165 Parties	• 187 Parties



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### Competencies from CITES perspective


CITES	CBD
<ul style="list-style-type: none"> <li>• Policy implementation</li> <li>• Results-oriented</li> <li>• Experienced</li> <li>• Focused</li> <li>• Pro-active</li> </ul>	<ul style="list-style-type: none"> <li>• Policy development</li> <li>• Process-oriented</li> <li>• New generation</li> <li>• Holistic</li> <li>• Deliberative</li> </ul>



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### Biodiversity problems requiring better synergy


- Poor knowledge of biodiversity resources +
- Poor management of biodiversity resources +
- Increasing human demand for and pressure upon biodiversity resources =
- Rapid loss of biodiversity



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### Synergy to improve knowledge


- Scientific/management research
- Nomenclature
- Reporting
- Databases (Clearinghouse mechanism?)
- Use/analysis of information
- Joint web site



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### Synergy to improve management


- Sustainable use principles and non-detriment findings
- Biodiversity strategy + wildlife trade policy (Global Strategy for Plant Conservation)
- Legislation/institutions
- Compliance/enforcement



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### Synergy to change/meet human demand


- Bushmeat
- Access and benefit sharing (ABS)
- Alien invasive species
- Social and economic incentives
- Community-based natural resource management
- Involvement of FAO, ITTO, etc.



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### Nat'l and internat'l collaboration tools


- MoU + joint work plan
- Regular bilateral communication and annual review of cooperation
- Cross-references in relevant decisions, work programmes and strategies
- Attendance at each other's meetings, activities
- Shared approach to accessing/raising/using funds
- Use of common partners (e.g. regional bodies, IUCN, TRAFFIC)



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### CITES concerns

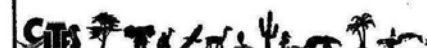
- Cooperation seems at times a one-way rather than two-way street
- General perception that CBD = biodiversity marginalizes CITES (e.g. donors/policymakers)
- No GEF 'window' for CITES
- Politically sensitive issues in CBD preventing resolution of practical problems in CITES (e.g. facilitation of trade in time-sensitive samples and other specimens, relationship between *ex situ* production and *in situ* conservation)
- CITES not designed/developed to handle certain issues (e.g. ABS and alien invasive species)




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### Possible actions at nat'l/internat'l levels

- Recognition of CBD sustainable use principles via revision of Resolution Conf. 10.4 or CoP13 Decision
- Identification of mutual priorities and resources for revised joint work plan between secretariats
- Clarification of CITES role *vis-à-vis* ABS and alien invasive species
- Attendance of CBD Secretariat at CITES CoP13; attendance of CITES Secretariat at next SBSTTA meeting
- Increased commitment to cooperation and synergy
- Better basis in both conventions for coherent decisions on common major themes
- Exchange of information and scientific know-how
- Better use of UNEP-WCMC, IUCN and other shared partners to strengthen collaboration
- Extension of cooperation, where applicable, to CMS, Ramsar, etc.




### 3.2 CITES-CBD Synergy – Perspectives from the CBD, MARKUS LEHMANN




**The CBD and CITES**  
 Promoting Synergy and Cooperation

*Markus Lehmann, economic advisor*  
*Secretariat of the Convention on Biological Diversity, Montreal*




## Outline

1. Overview of the Convention
2. Entry Points for Cooperation with CITES
3. The Memorandum of Cooperation
4. Outlook




CBD/Protocol and CITES – April 2004 – Slide 2



## CBD Overview

- 187 Parties; entry into force 29 December 1993
- Institutions:
  - Conference of the Parties (COP); COP-7: 9-20 February 2004, Kuala Lumpur
  - Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA)
  - Open-ended Working Groups on Access and Benefit Sharing, on Traditional Knowledge
  - Other ad-hoc bodies as necessary
  - Secretariat
- Cartagena Protocol on Biosafety; 91 Parties; entry into force 11 September 2003
  - COP-MOP 1: 23-27 February 2004
  - Compliance Committee


CBD/Protocol and CITES – April 2004 – Slide 3



## CBD Overview

### Objectives

- Conservation of biological diversity
- Sustainable use of its components
- Fair and equitable sharing of the benefits arising out of the utilization of genetic resources




CBD/Protocol and CITES – April 2004 – Slide 4



## CBD Overview

The 2010 target  
*"to achieve by 2010 a significant reduction in the current rate of loss of biological diversity"*

- Strategic Plan (VI/26, VII/30)
- Multi-year Programme of Work (VII/31, Annex)




CBD/Protocol and CITES – April 2004 – Slide 5

## CBD Overview

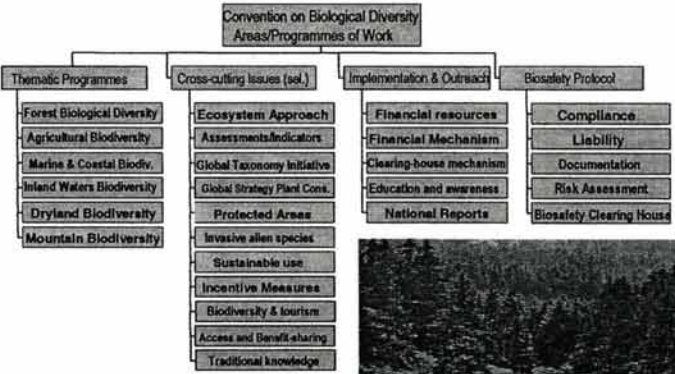
CBD and Millenium Development Goals  
 Decision VII/32:

- Goals 1, 6 and 7 dependent on effective achievement of the CBD objectives
- Use 2010 target as interim milestone for MDG 7



CBD/Protocol and CITES – April 2004 – Slide 6

## CBD Overview



CBD/Protocol and CITES – April 2004 – Slide 7

## CBD Overview

Policy guidance developed under CBD

- Ecosystem Approach (V/6)
- Proposals for Design and Implementation of Incentive Measures (VI/15)
- Addis Ababa Principles and Guidelines on Sustainable Use (VII/12)
- Guidelines on Biodiversity and Tourism Development (VII/14)
- Guiding Principles for Invasive Alien Species (VI/23)
- Guidelines on Impact Assessments (VI/7)
- Bonn Guidelines on ABS (VI/24)
- Akwé: Kon Guidelines on Impact Assessments for Projects on Lands and Waters traditionally occupied by Indigenous and Local Communities (VII/16)

CBD/Protocol and CITES – April 2004 – Slide 8



## Cooperation: Entry points

### Strategic Plan: Provisional Framework for Goals and Targets (VI/26, Annex; VII/30, Annex 2) :

- Goal 4. Promote sustainable use and consumption
- Target 4.3: No species of wild flora and fauna endangered by international trade



CBD/Protocol and CITES -- April 2004 -- Slide 9



## Cooperation: Entry points

### Decisions on Cooperation

- Explicit references to CITES (e.g., VI/20)
- VII/26: Liaison group with biodiversity Conventions;
- VII/26: Global partnership on biodiversity



CBD/Protocol and CITES -- April 2004 -- Slide 10



## Cooperation: Entry points

### References to CITES in programmes of work, e.g., at COP-7:

- VII/2: Dry and sub-humid lands biodiversity
- VII/4: Inland waters biodiversity
- VII/27: Mountain biodiversity
- VII/28: Protected Areas



CBD/Protocol and CITES -- April 2004 -- Slide 11



## Cooperation: Entry points

### Other references to CITES in COP-7 decisions:

- VII/10: Global Strategy for Plant Conservation
- VII/13: Alien Invasive Species
- VII/16: Article 8(j) – traditional knowledge
- VII/19: Access and Benefit Sharing
- VII/26: Cooperation

CBD/Protocol and CITES -- April 2004 -- Slide 12





## Cooperation: Secretariats

### Memorandum of Cooperation, 1996

- General framework

### Joint Work Plan, 2000:

- Non-wood forest products, including bushmeat
- Economic incentives (including labelling, certification, other positive measures)
- Sustainable use
- Taxonomy
- Global Strategy for Plant Conservation

CBD/Protocol and CITES – April 2004 – Slide 13



## Outlook

1. CBD and CITES as natural complements: consequences for cooperation?

### → Creating effective interfaces

- Standardization, harmonization of procedures etc.
- Exchange of data/information/guidance



CBD/Protocol and CITES – April 2004 – Slide 14



## Outlook

2. CBD and CITES as evolving instruments with increased areas of mutual interest: consequences for cooperation?

### → Need for flexible frameworks

### → Development of common understandings

### → Use of strategic competences, e.g.,

- CITES experience in enforcement and compliance
- CBD experience in developing policy guidance

### → Joint implementation at national level

CBD/Protocol and CITES – April 2004 – Slide 15



## Thank you for your attention!



CBD/Protocol and CITES – April 2004 – Slide 16

### 3.3 Relating the Operational Structures and Decision-Making of the Two Conventions, MARTIN JENKINS

#### CITES & CBD

- Both intergovernmental agreements
- Both have large number of Parties
- Both deal with biodiversity

#### CBD Objectives

- Conservation of biological diversity
- Sustainable use of the components of biological diversity
- Fair and equitable sharing of benefits arising out of the use of genetic resources

#### CITES Objective

“To ensure that no species of wild fauna or flora becomes or remains subject to unsustainable exploitation because of international trade.”

#### CITES

- Has a specific mandate - regulation of international trade in threatened species
- Is rule-based and uses lists as its primary basis for action
- Does not consider incentives or the costs of its implementation
- Operates on a voting system

### Why synergise?

- Help meet common objectives
- Increase efficiency
- Strengthen position of MEAs in international arena

### How synergize?

- At national level
- Through institutional mechanisms of each convention - secretariats and others
- Through the harmonising of decisions
- Through use by one Convention of products and processes established by the other

### National level co-ordination

- Responsibility of individual Parties
- Does not require external mandate
- Parties may take advice from the COPs of each Convention, or elsewhere

### Institutional co-operation

- Must be mandated, in principle at least, by the COPs of the Conventions
- Needs to be built into institutional workplans

### Existing MoU covers:

- Impact of harvest of non-wood forest products, including bushmeat
- Incentive measures for sustainable use
- Labelling and green certification
- Guidance on sustainable use
- Taxonomy and assessment of threats
- Global strategy for plant conservation

### Other areas for synergy

- GEF funding for CITES-related activities
- Alien species
- Guidance on role of species in ecosystem
- Access, benefit-sharing and captive breeding
- Joint policies in relation to trade agreements (WTO, WIPO, TRIPS)

### Some conclusions

- Cooperation between Convention institutions is likely to proceed slowly
- Improve co-ordination at national level

### The challenge

Ensuring that future developments under CITES are as responsive as possible to the ethos of the CBD, while still retaining focus and normative power

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### 3.4 Inter-Convention “Synergies” and International Co-operation: Applying the CBD “Framework Tools” to CITES Implementation, TOMME YOUNG<sup>1</sup>

Much has been said and continues to be said regarding the need for “synergistic” approaches to implementation of the MEAs. In the 12 years since the UN Conference on the Environment and Development (at which the Convention on Biological Diversity (CBD) was adopted), this issue has arisen at every CBD Conference of the Parties, as well as most (if not all) conferences, processes and intersessional meetings of the biodiversity conventions. Despite this level of attention, however, it continues to be stated as an almost entirely unachieved aspiration. This fact should serve as a clear indication that this issue of synergy is both important and difficult.

The synergies issue is generally divided into two components –

- national implementation synergies, and
- co-operation, collaboration and complementarity among the international instruments and processes.

There general assumptions seem to be that (1) there are legal impediments to international synergies, but (2) it is completely possible to achieve synergies by adopting legislation at the national level.

There are many possible reasons given for viewing the synergies questions as important. Among these, the most critical are financial in nature. Synergies are expected to make the achievement of conservation/environmental objectives less expensive, both at national and international levels, by reducing overlap, thereby decreasing the costs of implementation and operation of the conventions, and developing “economies of scale” among them. Additionally, the need for synergies is identified with the objective of eliminating operational and interpretational inconsistencies and conflicts among the MEAs or their national level implementation.

Many of these potential objectives (particularly the financial ones) may not be realised by simply changing the way the instruments work together. The overall goal of synergistic operation and implementation is important as a tool for achieving international aims, and can be a significant step toward the development of a “real” international law of conservation.

The long years without appreciable progress toward the synergies goal suggest that it may be currently “out of reach” both at international and national levels. It is not enough to persist in repeating the goal, and assuming that it can be realised simply by adopting legislation or COP resolutions, however. Some effort must be invested in determining the underlying factors that continue to prevent or restrict synergy, in the face of strong desire on the part of so many active and committed Parties and their delegations. Such effort must begin from a clear understanding of the relationship among the conventions.

The following discussion examines the potential of such a “synergistic approach.” It should be noted that it is based on a very basic, but heretofore un-emphasised, premise. That a “synergies agenda” relating to the CBD-CITES relationship may not require a specific process, programme or institutional response.

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<sup>1</sup> This paper represents the opinion of the author, based on recent but incomplete work and research into the reasons for the lack of progress in the “synergies issue” (complementary implementation of the MEAs). It does not necessarily reflect the views of IUCN.

Rather, it may be important to recognise and make effective use of the very different roles of and existing relationships among the conventions, as components of the overarching international regime on conservation, sustainable use and the environment.

This presentation focuses on (1) the role of “framework agreements” and “framework tools” in the existing regime, and (2) the manner in which other instruments and institutions can benefit from (and participate in the development of) framework tools.

### **3.4.1 Evolution of environmental (and other) legal regimes**

The roles of operative and framework instruments are most easily understood by examining the manner in which integrated legal processes have evolved at the national level of governance.

In virtually every situation, governance of particular issues and concerns arose initially as an attempt to address specific issues and problems. Some examples of this might be as follows

- Conservation law, in most countries, originated with the development of controls on hunting of particular species that were thought to be disappearing or “endangered.”
- Local market regulations often arose as mechanisms for (i) ensuring that sanitary and phytosanitary and other health issues are addressed (promoting these markets by making them safer) or (ii) more recently, taking action to protect these markets, which are threatened by competition from urban commodities systems. Among such market regulations were those that frequently focus on fish, game, poultry meat and other animal products, both wild and domesticated.
- Industrial development controls and incentives developed with the goals of encouraging investment (to benefit local and national economies and lifestyles) and preventing (intentional and unintentional) activities that are detrimental to local populations and existing entities and markets.
- Basic (minimum) wage laws sought to ensure that those at the lowest levels of society are not abused on the basis of their need, and have enough to meet basic human needs.
- Rural development and poverty alleviation objectives were promoted through “lifestyle development programmes” that create local markets and enhance the benefits received for current activities and products.

Re-evaluation of these legislative provisions has not always been a consistent process. When it occurred however, it became clear that these initial issue-by-issue “solutions” had not been successful. Thus,

- Despite initial and subsequent<sup>2</sup> controls, species populations continued to decline and go extinct.
- Market regulations had been and continue to be perceived as limits, often because local market supply, as well as demand, did not experience the expected improvement.

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<sup>2</sup> Further steps to address this included, development of habitat protection, protected areas, broader geographic protections, making possession of specimens of these species illegal without permits, controlling certain activities (use of dynamite and certain types of vehicles and equipment, for example.) These have also been found to be incompletely successful.

- Industrial incentives and other provisions, and national procurement policies were often found not to be promoting local needs, as controls were often sacrificed to the strongly felt need to encourage industrial development and foreign investment. These sacrifices often enabled industrial developers to avoid taking actions that would have enhanced local perceptions of their presence on local communities.
- With increasing, uncurbed inflation, minimum wage laws did not alleviate problems of urban poverty, rather entrenching low wages and validating corporate decisions not to increase their lowest wage categories.
- New programmes to improve rural livelihoods seemed to be insufficient to replace the losses to rural communities caused by changes in the resources and systems on which they had always depended.

Looking beyond these observable issues, however, it became clear that there were interlinkages between these issues. Many of the problems with the sectoral legislation and its objectives were multiplied as a result of sectoral disconnection and law interactions. This can happen in many ways. Combining the above examples might demonstrate this, as in many cases –

- Inflation, low wages, and other factors, led to the widespread need for additional sources of income. Hence, a “second income” market in game, eggs, marine products, etc., developed. Although taking of these specimens may have been illegal or controlled under conservation laws, it was encouraged by local market incentives.
- With harvesting uncontrolled, these activities often depleted accessible resources, so that efforts to participate in this market became more demanding and less valuable, leading to partial collapse of local markets.
- At the same time, industrial and agricultural development was eliminating and affecting habitats, leading to a further diminution in resource availability.

These composite examples are only the “tip of the iceberg” – real-life examples abound. Moreover, at the same time that the ineffectiveness of existing programmes was recognised, it was also determined that broader coverage would be needed. In conservation, for example, additional species-of-concern<sup>3</sup> were identified for protection; in market development, additional uses were noted; in commercial and social legislative sectors, additional needs placed demands on governments and society. The prospects for more activity at cross purposes were obvious.

### Regime development in addressing concerns

It was clear that the only way to address these would be to create mandates and mechanisms at a high enough level that all of the relevant government ministries, agencies and programmes would be able to co-operate and operate synergistically.

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<sup>3</sup> While concepts of “endangered” and “threatened” are generally recognised internationally, the overall objective of national legislation may include addressing local ecosystem disruptions and alterations of local populations of non-threatened species, and the protection of species that have particular importance to other species, ecosystems, and human uses.



(This often done at the national level (with varying levels of success), because a single government is better able to address co-ordination than the various sub-national institutions and structures could do through reaching out to one another. The central government, as a single unit, is absolutely required by concepts of “the rule of law” to operate consistently, and to develop a instruments and institutions that are consistent, both internally and with one another.

Two types of governmental responses were needed to enhance the ability of existing and new legislation to operate, and to evolve into more comprehensive codes and systems: (i) high-level national mandates for consistency and development of collaborative solutions; and (ii) support to national action, in the form of tools and forums for unifying and assisting in the interface between various kinds of activities, and for co-ordinating and eliminating unnecessary duplication – the development of “frameworks.”

#### *Level One: Policy*

- Overarching policy documents were needed which examine the relationships among sectoral mandates. While policy has always existed, it became clear that the highest level of policy was necessary to create and foster the kind of comprehensive approach to law, institutions, administration and implementation.
- (Sectoral) ministerial mandates remained important, but began to include clearer directions to collaborate, sometimes with specific identification of collaborative issues.

#### *Level Two: Tools*

- Multi-legal and multi-institutional **frameworks** were developed to serve three primary purposes:
  - to serve as a “virtual meeting-hall” – that is, to provide both mandate and a mechanism for co-ordination among activities across the range of topics covered by the field;
  - to a) create, b) assist with implementation of, and regularly review and improve the tools and mechanisms (herein “framework tools”) that enable each of the subject-specific legislative systems to focus on and better implement their particular mandates, and to operate in a way that is sensitive and responsive to cross sectoral concerns;
  - to liaise with, co-ordinate with and provide a bridge to other frameworks and framework tools.
- Co-ordinating through the frameworks, the various **operative laws** (e.g., protected areas law, wildlife conservation law, forest law, marine law) remain the primary tools and centrepieces of national law and implementation. Thanks to the framework laws, these primary operative laws and legal systems need not divert personnel, attention and funding to the development of “framework tools,” including
  - compliance tools and procedures
  - evidentiary procedures,

- inspection authority,
- provisions for valuation,
- rules on ethical governance,
- licensing procedures,
- processes for administrative review of decisions.

Rather they can use (or amend and use) tools developed under framework laws to address these concerns. Their experience with this application can then contribute to continued evolution of such tools, recommendations for other such tools, and development of guidance in tool application – all of which will be more useful by virtue of being based on the experience of many institutions, under many different laws.

In addition, in many cases, the framework is designed to provide effective and non-cumbersome mechanisms for co-ordination with other institutions and with the implementation of other laws, both within the framework and in other sectors.

#### Evaluating the modern “regime” approach to environmental law

The widespread use of the revised “national regime” approach (incorporating multi-sectoral co-ordination and framework tools) is quite recent. In many countries, for example, framework environmental laws have been developed within the last decade. Their initial use has been evaluated as having some successes in achieving its objects, but also presenting ongoing challenges.

On the success side, an effective framework law can provide the operative laws and the institutions within its sector with much better and more comprehensive “tools” to support their work. Rather than developing separate licensing and appeal procedures on an institution-by-institution or law-by-law basis (on a slim budget), for example, the framework law views the creation of these tools as its primary mandate, addressing it more completely, so that the ultimate procedure is more complete and consistent, more accessible, easier to apply, and much easier for the judiciary to review.

Another success, although perhaps less pervasive, has been encouragement of use of the framework tools in implementation of the operative laws. This step – encouraging and building capacity for the use of framework tools – is the most important ongoing responsibility under the framework law.

Framework implementation presents numerous “challenges,” however, which have sometimes prevented the complete acceptance of the framework approach. These are based on misunderstandings of several basic elements of the framework concept:

- Frameworks are not usually charged with direct implementing responsibility. They create or enumerate a consistent set of broad responsibilities and principles, but this is intended to help direct the framework as a tool builder and co-ordination mechanism. In some cases the framework agency is also given operative responsibility in one or more areas in which there is no current legislation – a combination that may make it more difficult to discern the framework component of the law.
- Frameworks are not (or at least need not be) a hierarchy of laws – the creation of framework tools is typically designed to serve many operative laws (both those that currently exist and those that will be developed in future. It need not be a means of dictating to the operative laws. In general, the frame-

work approach enables other laws to make use of framework tools, and to adjust them as relevant to a particular use, biome, activity, etc. Hence, the framework entity is often not in a superior position over the users of those tools.<sup>4</sup>

- Frameworks are usually not mechanisms for amalgamating all related operative institutions under a single framework. In fact, it has generally been true that the opposite is more likely. The objective is usually to enhance the coverage and impact of the operative laws and institutions, and to better enable them to achieve their objectives. By eliminating the need to develop supporting tools for themselves, the framework should allow them to improve their ability to implement, enforce, and promote compliance. It may effectively broaden their mandates in some cases.
- Framework approaches do not generally result in direct cost savings. Owing to limited budgets, many agencies were, in prior years, unable to develop the institutional activities and tools that are needed. The framework is less expensive than enabling and training all of the individual laws to develop their own tools, and by creating those tools makes each law and institution more efficient, but this increase in coverage and efficiency is unlikely to decrease costs.
- Promotion of synergy does not usually mean that the framework sits as “high arbiter” of disputes among agencies.<sup>5</sup> Its general structure is intended to guide the various institutions and agencies by giving additional clarity on their joint mandate.

### **3.4.2 Frameworks and synergy in international conservation law**

In application, there are significant differences between international law and the national systems in which concepts of “framework” and “synergy” are readily applicable.

#### International laws addressing conservation and sustainable use – A different kind of “synergies”

One of the most frequently cited obstacles to synergy among international instruments is the basic fact that international law is quite different from national law. In each country, all national law is adopted by a single legislative body or entity (or unified framework of legislative entities) and is binding on everyone within the jurisdiction under principles of the “consent of the governed.”

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<sup>4</sup> In some countries, the decision was made to impose the framework as an overarching “authority” over the operative laws. This is a separate decision, however, and is not intrinsic in the framework mechanism.

<sup>5</sup> As in note 3, some countries create framework laws that include an authority to serve as an arbiter or tribunal. This is a separate type of system, and not directly part of the framework mandate.

By contrast, international law is based on a concept of national sovereignty. Each country is separate and fully independent of all others, with a complete right to govern itself and all activities within its jurisdiction. The primary exception of those matters on which it enters into “agreements”<sup>6</sup> with other sovereigns. Each such instrument is, in effect, a separate contract between the sovereign nations, binding only on the countries that have ratified it. The parties to one agreement are only authorised to operate collectively with regard to that agreement.

There is, therefore, only one way that the work of one international instrument could ever be combined with the work of another – where the two instruments have identical members, and where the particular delegations present at both agreements agree to merge the two. This is not a likely combination of events.

This is not the end of the question, however. It is true that the Agreements cannot be merged, so long as they have different memberships. What is more important, however, is the fact that these agreements are, in fact, by definition and by operation of law, neither repetitive nor inconsistent. There is no reason to merge them and it does not appear likely that they will overlap each other, so long as both operate under their legal mandates.

Rather, the parties who have entered into multiple agreements now have the responsibility to ensure that all of their mandates and commitments are implemented (nationally and internationally) in a manner that is consistent and mutually supportive. This obligation can be likened to the situation of a private manufacturer who has entered into a variety of contracts – including contracts with various suppliers of materials, utilities and other services; with purchasers of his product; and with the owner of the land or facility in which he conducts his manufacturing operation. It is his responsibility to ensure that all contracts are not incompatible and are fully implemented. If he breaches his contract with a purchaser, he cannot defend by saying that the contract was incompatible with his lease or employment contracts. Instead, he must find mechanisms for compatible implementation, through negotiation with the parties to the various contracts, and in some cases, by creating a collaborative relationship among the instruments and their parties. If he fails in this duty, the law will consider that he did not act in “good faith” in entering into the various agreements.

A similar duty of good faith applies to governments – they may not enter into agreements on which others are relying unless they have a clear intent to comply with them. This duty applies not only to the strong mandatory provisions, but also to those provisions in which the parties agree to use best efforts (e.g., the provisions which claim that the parties will “endeavour to [take action]” but which state that these responsibilities must be undertaken “to the extent possible” or subject to other limitations such as funding, personnel and other capacity.) Even here, the Party has an obligation to take whatever action is possible. A country which has made no effort to comply with such a “best efforts” provision is in violation of its obligations under the agreement, as much as if it fails to perform a less hedged obligation.

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<sup>6</sup> Also referred to as “Conventions,” “Treaties,” “Forums,” “Programmes,” “Undertakings,” and “Organisations.” It should be noted that there are a very small number of international principles relating to human rights which are applied in international law without agreement of sovereigns, and that in limited situations, the agreement is assumed, where all countries appear to accept and follow a principle without specific instrument.

As a result, even though there is no direct legal basis for requiring the synergy between the conventions as instruments, there are strong legal mandates under which the parties must operate in a consistent manner, as co-ordinated components of the overall “web” of international conservation law. These mandates include both participation in international decision-making processes (such as COP meetings) and implementation of national commitments under the international instruments and COP decisions.

### *Synergy and the rule of law*

Perhaps the most important factor relating to synergy among instruments is the general similarity of the memberships of the various instruments. As of this writing, for example,

- The CBD has 187 parties;
- CITES has 166 parties, and includes only 2 (the United States and Brunei Darussalam) that are not also parties to the CBD;
- A great many other MEAs and instruments may also be relevant, and the overwhelming majority of their parties are also parties to the CBD and CITES.<sup>7</sup>

What does this mean for synergy? As a matter of “practical reality,” collaboration is not only possible but necessary. Over 164 countries around the world are **required** to implement **both** CITES and the CBD, **and to find a way to apply and implement them consistently**. As a consequence, there is a clear mandate to develop, at minimum, national-level synergies – a process that is currently hampered in some instances by lack of co-ordination at the international level.<sup>8</sup>

### *Synergy and new kinds of international law and law-making*

International conservation law includes many kinds of operations and is in some ways on the cutting edge of international legal development. The mechanism of a “conferences of parties” (COP) as a tool of international decision-making under the multilateral environmental agreements is virtually a creation of international environmental law, having little precedent prior to the MEAs. As a concept, then, the COP is less

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<sup>7</sup> For example, of the WTO’s 154 parties only two (USA and Brunei-Darussalem) are not CBD parties. Eight of the WTO’s parties (Angola, Armenia, Bahrain, Haiti, Kyrgyzstan, Maldives, Oman, and the Solomon Islands) are not in CITES, and 20 CITES parties are not included in the WTO. (The WTO separately lists Hong Kong, Macao and Chinese Taipei, but all three of these are part of China, a Party to the CBD. In addition, the special status of the EC as a party to the CBD and WTO suggests that it should not be counted, given that all EU Member States are Parties to CITES.)

<sup>8</sup> National consistency – in terms of a consistency among national positions expounded in international forums – may play a part in the international issues as well, however. For example, one country which has strongly defended the right of Australia to block international consensus on one recent CBD decision on invasive species (CBD COP Decision VI-23, and subsequent attempts to remedy difficulties arising from the manner in which that decision was adopted), took an equally strong position in another forum against countries in the minority for failing to accept the majority view. Democratic principles and the rule of law suggest that the same country should not take inconsistent positions in international forums, particularly those in related areas. Hence, a synergistic approach to the development of national positions and co-ordination among national delegations is essential to the achievement of international synergies and an accepted framework of law for international law and the functioning of international conventions.

than 30 years old. Given that international law is developed primarily through long “evolutionary” processes, it is unsurprising that the exact nature of COP decisions (including the manner and extent to which they are binding on the Parties, for example) is not yet fully understood, and is still evolving.

There remain many questions about tools and processes created under international agreements, including many procedural questions about how they operate and (perhaps more important) uncertainties about what level of compulsion they have at the sub-national, national and international levels. Perhaps as a consequence, numerous COP decisions calling for synergies or complementary or integrated action have not provided particularly strong mandates, especially at the international level.

At the national level, the role of international lack of synergy in the lack of progress on joint implementation is, in some cases, much clearer. For example, reporting requirements are often cited as an area in which synergy at the national level is hampered by lack of synergy internationally. However, analysis of this problem can sometimes be somewhat simplistic.

It is often noted, for example, that some international agreements appear to be asking the parties to report very similar information to both conventions, but using different formats. The assumption is that these formats that are so different from one another that the various reports must each be separately compiled and reported, and that this is the reason that reporting requirements have not been successful tools in the MEAs.

Less attention, however, is given to a much more important issue – the underlying purpose of reporting (which may differ widely among the international instruments.)

- CITES reporting, for example, is intended to give an indication of whether a country is complying with mandatory obligations. There is a strong inherent incentive to report as positively as possible regarding the effectiveness of national management authorities and enforcement.
- By contrast, the CBD tends to focus on addressing needs for assistance (programmatic, financial and other). The incentive here is to report regarding the manner in which lack of essentials is inhibiting effectiveness.

Even if both Conventions were to ask for the same information on wildlife trade, in the same format, it might still be difficult for a country’s CITES and CBD focal point agencies to agree on what information should be provided. (This subject will be further expounded by other presentations and discussions.)

Within each convention’s operations, as well, there are many variations. The international policy processes of the MEAs are often hybrids, and vary greatly from one agreement to another. For example, CITES operates almost exclusively by majority (and supermajority) vote. Its COPs are generally devoted to specific issues of implementation, such listing and quota decisions, plans of action, tools to assist in assessing the status of local populations, harvesting and trade programmes, and generally the management of implementation and enforcement at the national level.

There is a basic right in CITES for Parties to refuse to participate in COP decisions and resolutions that were adopted over their opposition. This process is the “reservation” – a party that formally notifies the Secretariat of its reservation will not be bound by the decision. This is a basic necessity in any international law that allows non-consensus action – arising out of the general rule that a sovereign government cannot be bound to any action it does not specifically agree to. It is a strong indication of the positive

evolution of international law, however, that very few reservations remain on CITES's books, even though almost all CITES decisions are made by non-consensus voting.

By contrast, the CBD operates almost entirely by consensus, and focuses on broad "programmes of work" directed at overarching conservation and sustainable use topics. Some of these address entire biomes (e.g., forests, marine, mountains, drylands, inland waters), while others look at crosscutting issues and mechanisms (e.g., protected areas, access to genetic resources, incentives, invasive species, liability, technology transfer.)

There are only two very limited non-consensus processes within the CBD. The most important of these<sup>9</sup> is established under the Convention itself. This is the process for adopting an "Annex" to the convention (Article 30.)<sup>10</sup> An Annex may relate to any procedural, scientific, technical or administrative matter. The first two Annexes were adopted with the Convention. They address the implementation of the requirements of the convention relating to inventorying and monitoring biological diversity (Annex I), and the arbitration and conciliation of disputes among Parties (Annex II.) Annexes may be adopted by vote of two thirds of the Parties present and voting at the meeting. They then become annexed to the convention, and binding on any party that does not file a notice within a year of the Annex's adoption. (Notification functions like a "reservation under CITES" to support the basic principle of national sovereignty mentioned above.)

In both Conventions, where a majority or supermajority voting process is authorised, the relevant rule begins with an exhortation that "the Parties shall make every effort to reach agreement by consensus." However, in practice, where a vote is authorised, the voting process is virtually always used.

Although the difference in their processes is often cited as a reason that the Conventions cannot operate synergistically, the logic behind this statement is not clear. Both CITES and CBD voting processes are primarily directed to functional matters, and offer sovereigns the right to avoid being bound by decisions taken over their opposition. Given the overwhelming similarity in the two conventions' lists of Parties, these procedural differences do not appear to alter the relevance of the decisions as tools for synergistic operations.<sup>11</sup>

### *Compliance*

Beyond these factors, the compulsions underlying, supporting and mandating the implementation of national level law – fines and penalties, potential civil liability, and direct incentives – are not generally applicable at international law. As noted above, international agreements are between governments. This

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<sup>9</sup> The CBD's other non-consensus process was established under the Rules of Procedure, and relates to non-substantive "matters of procedure," which may be adopted by a majority of the Parties present and voting. (Rules of Procedure, 40.2.)

<sup>10</sup> Unlike an amendment or protocol, an annex becomes a part of the convention, even where it was adopted by less than a consensus of the parties.

<sup>11</sup> In most field of legal or administrative endeavour, significant synergy (collaboration and complementarity) is created among a variety of bodies that are differently mandated and empowered, and that therefore operate under different procedural rules and approaches.

means that they are not directly applicable to actions within any country or by individuals or entities within the jurisdiction of any country. Thus, if countries agree to control international trade in a particular species, and that trade continues to be legal in Country X, the only remedy in international law is a complaint against Country X for failure to adopt or implement legislation in fulfilment of the agreement. No one, apart from Country X, may bring any action to compel people in X to comply with the international limits on such trade. National implementation only occurs by adoption and implementation of laws implementing international mandates – in the absence such laws, there is no basis for taking direct action against individuals or corporations.

In the MEAs, the country-parties generally commit to adopt national laws and other measures (sometimes softened by the provision, “to the extent possible.”) If they fail to legislate, or if they do not enforce these laws or fail to meet other commitments, there are few available mechanisms and tribunals for addressing this failure. In general, forums like the World Court, International Tribunal for the Law of the Sea, Permanent Court of Arbitration, etc., are very “soft” – that is, they can only be called to address a claim, where the national (sovereign) government has agreed to be subject to jurisdiction of those mechanisms and tribunals, and to accept the judgement or decision. In general, the most effective compliance mechanisms at the level of parties are informal and derived from voluntary international practice of the parties, and based on their own (collective) active choices. One effective example of this is the CITES Standing Committee’s practice of identifying countries whose CITES compliance is not satisfactory, and recommending that the parties avoid imports coming from those countries.

#### *Interim conclusion: International law and “synergy”*

The legal explanations of the reason we have multiple environmental conventions (why the CBD’s drafters did not integrate all of them into a single instrument) are only part of the answer. It is important to recognise that “legal thinking” is different from other (actual?) thinking, and to understand that the various legal concerns raised regarding synergies affect only the manner in which collaboration occurs – they do not prevent such collaboration. Thus, the concern of this paper is not why there are several instruments, but how those instruments can relate to each other.

Although international law cannot create formal relationships between international instruments without the consent of all parties to both instruments, there are strong legal principles that appear to mandate practical synergies. This is particularly true where there is a near complete convergence in the membership of the instruments. In those situations, those countries who are parties to both instruments have a legal obligation to ensure that the instruments are fully and consistently implemented and interpreted. As such, they are legally bound to ensure practical synergies both in national implementation and in international forums such as Conferences of Parties.

#### International development of the framework approach

The evolution of international environmental law is in some ways quite similar to that of national environmental law as described above. It began with a variety of specific instruments, focused on specific



issues and problems noted, which should be resolved through international processes.<sup>12</sup> A number of pre-1992 instruments of this type continue to be vibrant and essential components of international environmental law, including:

- the Ramsar Convention on Wetlands of International Importance (1971, entry into force 1975);
- the Convention on International Trade in Endangered Species of Fauna and Flora (CITES) (Washington, D.C., 1973, entry into force, 1975);
- the World Heritage Convention (WHC) (UNESCO, 1972, entry into force 1975);
- the Vienna Convention for Protection of the Ozone Layer (later completely overshadowed by its Montréal Protocol on Substances that Deplete the Ozone Layer) (Convention adopted Vienna, 1985, entry into force 1988, Protocol adopted 1987, entry into force 1989, amended four times<sup>13</sup>), and
- the Convention on Migratory Species (CMS)

Two of these instruments, CITES and the Montréal Protocol, clearly focused on matters more traditionally considered to be proper subjects of international law – international trade/transport (CITES); and activities affecting the “global commons” – in this case the atmosphere (Montréal). The other three are focused primarily on specific ecosystems and habitats, formerly thought to be matters of national sovereignty, almost entirely domestic in scope.

Then, in 1992, the UN Convention on the Environment and Development (UNCED or “Earth Summit”) served as a major watershed in the development of a new approach to international law. The work of UNCED was generally intended to create an international legal environment that recognised the interconnectivity of all life on earth and all components of the global environment. In doing this, it created a comprehensive global environmental policy (Agenda 21), an overarching framework law relating to the biosphere (the CBD), and two additional sub-framework laws (the UN Framework Convention on Climate Change and UN Convention to Combat Desertification, both of which address some matters within the CBD, as well as matters outside of its scope), as well as two soft-law instruments – the Rio Declaration on Environment and Development (a forerunner to the many ministerial, workshop and other declarations that have proliferated in conservation and sustainable use issues since that time); and the Non-Legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of All Types of Forests.

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<sup>12</sup> Although a digression from the basic object of this paper, it may be useful to the reader to understand a basic principle of international law – that there are only certain kinds of objectives that should be addressed internationally. Originally, the sweep of international law was limited to matters involving jurisdiction across boundaries (such as border disputes, travel (including watercourses), customs, rules of warfare, treaties and alliances affecting on trade or security, transboundary resources (especially lakes and rivers) and the global commons.) In recent years, this has broadened, and international law has also addressed matters of global concern that had been traditionally matters of national sovereignty (including, most relevantly, atmospheric pollution, conservation of biological diversity, humanitarian and other technical assistance, and human rights.) It remains true that proposals for instruments addressing matters thought to be domestic (for example, protected areas and management of non-mobile natural resources) face significant opposition.

<sup>13</sup> London, 1990; Copenhagen, 1992; Montréal, 1997; and Beijing, 1999.

After Rio, additional instruments have entered into force, further embracing the framework concept and raising questions of how the frameworks themselves interrelate. Among these are United Nations Convention on the Law of the Sea (UNCLOS) (Montego Bay, 1982, entry into force 16 November 1994<sup>14</sup>), and the instruments creating the World Trade Organisation (revising an existing system to make it more clearly a framework).

In addition, a number of soft-law instruments and non-governmental commitments have developed to further address related concerns, enhancing the “international overarching (cross-sectoral) policy” approach of Agenda 21. Among these are the UN Millennium Development Goals, the WSSD Plan of Implementation, and the Global Compact.

The present situation in international environmental law is clearly parallel to that of national governance where the framework approach is adopted. There are –

- clear international policy instruments (Agenda 21, the WSSD PoI, the MDGs, and the various soft-law instruments),
- Clear framework instruments (CBD, UNCLOS, WTO and the sub-frameworks of UNFCCC and UNCCD), with ineluctable mandates to create tools and promote collaborative achievement of policy objectives through the direct, essential functions of new and existing operational instruments; and
- important operational instruments aimed at action and formal work toward ACHIEVEMENT of objectives, including CITES, WHC, Ramsar, CMS, Vienna (Ozone) Convention, and others. Of these, the particular effectiveness of CITES and the Vienna Convention, arising out of their strong integration with trade and commercial issues, provide numerous useful examples of how to achieve critical objectives and make visible and verifiable change in the way the world operates.

#### Applying the framework approach to achieve synergies between Multilateral Environmental Agreements

Based on the foregoing analysis, and examination of its negotiations, its design and function, and its implementation, it is clear that the CBD was intended as a “framework” instrument. Its overarching goal is very similar to that of the framework laws at national level. Its scope is broad and its mandate is not directed at implementation, but at developing tools and processes to enable implementation and creating a basis for co-ordination among implementation entities and governments.

It is important to view the differences among the conventions, and the “framework” role of the CBD not as problems and restrictions, but as bases for addressing their shared international objective of the conservation and sustainable use of biological resources. The question is not one of conflicts and overlaps be-

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<sup>14</sup> Also important is its first subsidiary instrument – the UN Agreement for the...Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (“Fish Stocks Agreement”) (New York, 1995, entry into force December 2001). The full (slightly confusing) official name of this instrument is reproduced in full as the “United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks. Although other instruments address organisational and regional matters under UNCLOS, the FSA stands as the first clearly articulated global operational instrument using the UNCLOS framework.

tween the framework and the operational instruments. Rather it is how the framework can assist those instruments in achieving their mandates (through the creation of framework tools and enabling co-ordination), and help to find areas in which additional operational instruments are needed that can work in complementarity with other instruments, and mobilise the international community to address those needs.<sup>15</sup>

#### *What are the CBD framework tools?*

The CBD's first 11 years of operation have seen the development of a number of critical tools at both national and international levels. Among the most important of these are the National Biodiversity Strategies and Action Plans ("NBSAPs") as well as the national biodiversity inventories and monitoring. These instruments were designed to enable parties to begin immediately to address biodiversity-related issues in a more holistic and comprehensive way. It was intended that they would address a broad range of issues, including matters such as commercial use of species, and enable all related elements to operate more consistently. With regard to species trade, for example, the NBSAP could (probably should) address both international movement and domestic commercial uses, enabling a more effective integration of principles developed through CITES across a broader range of domestic action.

Another primary component of the framework approach are the development of comprehensive "thematic programmes of work" addressing major elements within the CBD's mandate, covering thematic/biome areas (agricultural, drylands, inland water, forest, island and marine/coastal biodiversity.) These programmes are not intended to serve as workplans for the Convention, rather, they are intended as co-operation and planning mechanisms. They enable NBSAP revisions in the relevant areas, through which countries can plan better, and can maximise synergies with one another, with donors, and with various international instruments and processes.

The involvement of the Ramsar Convention in the development of several of these programmes (primarily the POW on inland waters, but also those addressing other major biomes of relevance to wetlands and watercourses, such as drylands, forests, agriculture, etc.) is an excellent example of the manner in which the framework process operates best. Ramsar's special expertise, and its nearly 30 years of experience in addressing many concerns relevant to these programmes is completely reflected, through its direct participation in POW development. Accordingly, many of Ramsar's primary objectives are addressed in the POW in ways that entirely reflect the strategic planning and decisions of the Ramsar COP. This can, among other things, maximise opportunities for collaboration (leveraging Ramsar's investments in its own workplan) and potentially increase the availability of GEF funds earmarked for water-related conservation, to address matters of particular concern to Ramsar. While the POWs have not diminished the significant level of work that Ramsar is called to achieve, they have enabled Ramsar to focus on its own

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<sup>15</sup> Other critical questions may also be of relevance, including whether and how the CBD framework should interact with other key framework instruments and agencies (UNCLOS, WTO, etc.) These issues are not addressed here, although the question of whether an official CBD presence in the WTO (currently not possible) would help CITES, whose trade mandate means that the WTO another important framework.

mandate, and to selectively include critical work in areas in which it is particular able to add value, without the need to develop new tools, or to co-ordinate information in areas tangential to its central focus.

The third component of the CBD's framework are the "crosscutting" programmes. These are directed at the creation of specific tools that cut across the full range of the CBD's thematic areas. One important role of these tools is to serve as mechanisms for co-ordination of shared objectives and implementation. A number of the tools so developed may be particularly valuable in the context of CITES, including the Ecosystem Approach (CBD-COP Decision V-6) and a key tool for its implementation, the Addis Ababa Principles and Guidelines for the Sustainable Use of Biodiversity (CBD-COP Decision VII-12). The Global Strategy for Plant Conservation (CBD-COP decision VI/9) is another such tool. All of these instruments can serve as bases for integrating specific actions (including the implementation of other instruments, and actions taken under various programmes of work) to ensure maximum complementarity.

Other tools that may have direct value to CITES are currently in process, including tools for the development of an "Enabling Environment for Technology Transfer" (see CBD-COP decision VII/29), and guidelines for the removal of perverse incentives (see CBD-COP decision VII/18). The CBD is also a primary mover in the process of developing targets and indicators relevant to achieving the biodiversity related components of the millennium development goals, as well as the various biodiversity targets in the WSSD Plan of Implementation.

There are also many tools that address matters not within CITES direct mandate, but on which, if the CBD tools did not exist, CITES might have been forced to engage in action or oversight. Some of these include guidelines developed to address invasive species,<sup>16</sup> tourism,<sup>17</sup> and indigenous peoples/ communities embodying traditional lifestyles.<sup>18</sup>

### *The two-way framework*

The framework approach, however, is a two-way process. Tools can be helpful and can promote synergies only if (i) they are designed in a way that addresses all relevant concerns and (ii) they are applied and integrated into the range of national and international actions, feeding back the results of initial application into the tool revision and reconsideration processes that must be an inevitable component of their creation. With regard to CITES and CBD synergies, for example –

- Species trade and market issues should be integrated into NBSAPs, and into CBD recommendations and guidance regarding NBSAP revision. Although most NBSAPs include some reference to these

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<sup>16</sup> See CBD-COP decision V/8 (including "Interim Guiding Principles for the Prevention, Introduction and Mitigation of Impacts of Alien Species"), and CBD-COP decision VI/23 (including "Guiding Principles for the Implementation of Article 8(h)"). Controversies over the adoption of the latter decision are still in the process of negotiated resolution, however, it is clear that one of these two must be in force.

<sup>17</sup> "Guidelines on Biodiversity and Tourism Development", annexed to CBD-COP decision VII/14.

<sup>18</sup> "Akwé Kon Voluntary Guidelines for the Conduct of Cultural, Environmental and Social Impact Assessment regarding Developments Proposed to Take Place on, or which are Likely to Impact on, Sacred Sites and on Lands and Waters Traditionally Occupied or Used by Indigenous and Local Communities" included in CBD-COP decision VII/16.

issues, many do not clearly evaluate performance or address the domestic and international factors limiting practical co-ordination.

- CITES involvement in critical global collaboration, including, for example the Global Strategy for Plant Conservation, can be a major contribution toward achievement of international objectives, while also enabling CITES to consider and propose actions and programmes that could foster better implementation of CITES with regard to flora.
- CITES national and international processes (significant trade, listing, quota-setting) can be enhanced by applying and/or coordinating with relevant components of tools such as the Sustainable Use Principles and Ecosystem Approach, as well as possibly the Invasive Species Guidelines, tourism guidelines, and guidelines for addressing special issues regarding indigenous people. This application will have a symbiotic impact as well, enabling the CBD to utilise practical experience, and to modify or revise these tools to better address CITES needs.
- Both conventions can benefit from CITES's active participation and practical input into CBD tool-development processes, including (a) work on the Technology Transfer POW, (b) the development of guidelines on removal of perverse incentives; and (c) expert investigation into biodiversity valuation, economic incentives, compliance and liability.

#### *Enhancing co-ordination and coverage*

Another critical element of the framework approach is that of attempting to ensure that all relevant issues and concerns are addressed at the proper level (global/ regional/ national/sub-national) using the appropriate type of instrument or action (binding, non-binding, inter-governmental, commercial, etc.) This process, although sometimes controversial, can be of particular importance to all conventions.

At present, among the most serious gaps in international law affecting issues within MEA competencies and frameworks are issues relating to waters, forests, and compliance. It seems clear that all three of these issues will be the focus of major international discussions and possibly negotiations in the coming years. It is also obvious that the MEAs, especially CITES and the CBD must be essential participants in all levels of development of international responses to water, forest and compliance concerns.

Within the water arena, for example, it has long been recognised that high-levels of cross-border controversy relating to water will probably prevent any long-term solution in the form of a new international convention on water.<sup>19</sup> Consequently, in light of the broad mandate contained in the Ramsar Convention, that instrument is increasingly filling the gap, addressing a broad range of water issues relating in some way to conservation of waters and water systems.

The "international forest regime" is also in a state of transition, with the prospect of an international binding instrument on forests again being discussed in UN forums. In addition, the parties to the International

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<sup>19</sup> See, e.g., the Convention on the Law of the Non-navigational Uses of International Watercourses, which is still not in force despite the passage of more than 15 years since it was adopted.

Tropical Timber Agreement are considering renegotiating that instrument to be more broadly applicable to a wider range of forest biomes and forest conservation issues.

Finally, global attention to compliance, enforcement and liability matters suggests that development, whether through soft-law guidelines, or more binding mechanisms, is possible.

All three of these issues are of major importance to both CITES and the CBD. It is telling that all have a particular relevance to the interface between environment/ conservation and trade, and that each could be most effective if they call upon the CBD for its framework tools (as coordinating mechanisms, integrating them into the existing international structure), and on CITES for its ability to make a critical contribution to international principles of sustainability and trade.

### **3.4.3 Conclusion: The sluggish “synergies agenda”**

The need for synergies has been prominent on the international agenda for at least two decades. It was a primary reason underlying the creation of the CBD, which was always intended to help normalise the relationships among existing MEAs and maximise the coverage of relevant issues within international law. As noted at the outset, the question of inter-agreement synergy has appeared in every CBD-COP and innumerable other meetings and processes.

Moreover, this is not a matter of “lip-service.” Some of the strongest proponents of synergy are national implementing agencies – suggesting that the policy/diplomatic and practical/action components of the conventions are united in their desire to create a synergetic relationship among the instruments at all levels. This makes it more surprising to see, 12 years later, the same words and mandates being expressed, and little progress on any front.

To their credit, the MEAs are not currently limiting their synergy-related efforts to reiteration of their oft-repeated recommendations. New tools such as the growing use of targets and indicators, the development of comprehensive, voluntary programmes of work, and similar actions is creating a new atmosphere of collaboration (currently most evident in the relationship between Ramsar and the CBD.) A clearer recognition of the meaning of the “framework approach” and commitment to participate both in the creation of framework tools and in their implementation could bring about significant further progress in this arena. With respect to CITES and the CBD, this would mean both a willingness of CITES to use the CBD framework tools, and of the CBD to focus on its role as a tool-maker, convener and service provider (to the MEAs and to the Parties.)

In this connection, however, it is important to recognise one critical fact – synergy among the conventions is not, at base, a method for decreasing their costs, limiting their respective operations, or altering their mandates or objectives. The most that it can do (but a very important contribution) will be to increase the productivity and “value added” of the conventions, as each is empowered (by the existence of the framework tools, and concomitant freedom from the demand that each instrument develop its own separate set of tools) to make more comprehensive progress within its respective mandate.

Finally, it is useful to consider for a moment the much maligned limitation on the GEF’s funding priorities. The decision to apply the GEF to a small number of instruments seems clearly to have been based on the assumption that these instruments would serve a coordinating/framework role. As noted above, the

CBD's programmes of work can be a tool of such co-ordination, and as such can ensure that national activities utilising GEF support address issues of priority under other MEAs, and operate synergistically. This necessarily requires that CITES and other operational instruments participate in POW creation, but can also mean that national implementation of operational conventions can be more directly supported through the GEF.

### **3.5 Case Study: CITES and CBD in Canada, CAROLINA CACERES**

#### **3.5.1 The Canadian context**

Environment Canada, the Canadian federal ministry of the environment, is the lead agency responsible for CITES and CBD implementation in Canada. Within Environment Canada, the Canadian Wildlife Service (CWS) leads the administration of CITES and the Biodiversity Convention Office (BCO) leads Canada's efforts to respond to CBD.

The implementation and administration of CITES is shared among Federal and Provincial/Territorial agencies. CWS provides the CITES Management and Scientific Authority, working closely with other federal departments who also play a role in CITES implementation. The Wildlife Enforcement Branch of CWS is responsible for compliance with the domestic legislation that implements CITES in Canada. Furthermore, each Canadian Province and Territory is responsible for managing its own wildlife and has an appointed Management and Scientific Authority for their jurisdiction.

The BCO plays a policy coordinating, catalysing, and facilitating role, leading national efforts responding to the CBD. It operates through an extensive network of contacts within and outside government. At the federal level, an Interdepartmental Committee on Biodiversity provides advice and guidance on domestic and international policy issues. The Federal/Provincial/Territorial Biodiversity Working Group focuses on national biodiversity issues, while the Canadian Biodiversity Forum allows a wide range of stakeholders to advise governments. The BCO also works with Aboriginal peoples to advance Convention issues.

#### **3.5.2 Opportunities – Sharing information**

Assessing the status of Canadian biodiversity, determining threats to biodiversity and making management decisions on the sustainable use of biodiversity requires fundamental biological and ecological information. Within Canada, significant biodiversity data has been collected through a number of initiatives and is housed by a number of agencies, both within and outside government. Canada is undertaking a strong effort, involving a network of governmental and non-governmental biodiversity data-holders, to establish standards and facilitate information sharing between data holders and with other stakeholders.

For example, to meet CBD obligations, Canada developed the Canadian Biodiversity Strategy, under whose framework the Species at Risk Act (SARA) was developed. The Act lists and protects species in Canada, based on assessments made by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) and these status assessments are a key source of information for making a CITES non-detriment finding. The ability of CITES authorities to access SARA information thus improves the implementation of CITES in Canada.

Another Canadian initiative, the General Status of Wild Species in Canada, reports, in five-year intervals, on the conservation status of wild species in Canada, thus providing an overview of a broad cross-section of Canadian species – including those that are doing well and not just those suspected of being at risk. This initiative sets a baseline against which trends in the status of species and effectiveness in their conservation can be evaluated. Sharing data on the level of international trade in Canadian CITES-listed species can inform the general status assessments, and conversely, the general status report can flag species which may be threatened by trade.



Overall, the ability to easily share Canadian biodiversity data held by a number of government agencies and non-governmental organizations contributes to effective CITES implementation, effective CBD implementation and provides access to Canadian information towards meeting the CBD “2010” target (to achieve by 2010 a significant reduction of the current rate of biodiversity loss at the global, regional and national level).

### **3.5.3 Opportunities – Sharing experiences**

Sharing experiences and lessons learned can also improve the implementation of one or both Conventions in Canada. For instance, under SARA, permits may be issued authorizing a person to engage in activities affecting a listed species or its habitat. These can be for scientific research, for activities which benefit the conservation of the species, or activities where affecting the species is incidental to the carrying out of the activity. In developing guidance and criteria for issuing permits under SARA, Canada benefited from its experience in implementing CITES, including the framework used for making non-detriment findings.

### **3.5.4 Enhancing CBD-CITES synergy in Canada**

Generally, synergies in CBD and CITES implementation arise opportunistically as a clear need and benefit is identified. Additional synergies are achieved by ensuring information and perspectives are shared between Canadian CITES and CBD focal points. This helps build cohesiveness, identify areas where actions taken could be of mutual benefit and ensure the effective implementation of both conventions.

### **3.6 Case Study: Madagascar, CLAUDINE RAMIARISON<sup>1</sup>**

Madagascar has developed important mechanisms for implementing Biological Diversity management related conventions considering the importance of its natural resources of which some are endemic, and considering the fast degradation due to unsustainable exploitation. However, these mechanisms are not always coherent as each convention requires specific measures. Each country has to seek for consistency and synergy of all the various mechanisms to be implemented.

Madagascar ratified early enough in 1975, the CITES Convention which led to the implementation of an appropriate system for endangered species management. The management authority attached to the Ministry in charge of Waters and Forests is, in principle, supported by a scientific committee that provides advices necessary for decision making for the country.

In the eighties, an awareness appears of the necessity to conserve biological diversity resources, through the elaboration of the National Strategy for the Nature Conservation, which is the main basis of Protected Areas creation and management in the country.

Becoming a Party of the Convention on Biological Diversity in 1996, this event marks for Madagascar the beginning of an effort to achieve consistency in the implementation of the National Strategy for Sustainable Management of Biodiversity integrating international conventions the country has ratified. This period constitutes an important turn in the evolution of natural resources management, stressing more and more local communities involvement in the management and in the improvement of their livelihoods. Adopting a voluntary and integrated approach for the CDB implementation at different levels encourages the development of diverse management shapes.

The increase in number of international conventions working for the biological diversity wise management and as these conventions deal with the same issues and have mostly the same conservation/ development objectives the need of synergy is obvious. There are some opportunities to be exploited, in order to maximize the efforts towards sustainable management of biodiversity resources.

#### **3.6.1 A legal and institutional framework favourable to CITES/CDB synergy<sup>2</sup>**

CITES management practices and approaches focused more on species and international trade, without taking really in consideration the habitats to which the Convention on Biological Diversity pays a particular attention through ecosystems management. Yet, the depletion of species listed or not in CITES appendices comes also in part from habitat degradation due to destructive practices and exploitation. Thus, synergy between the two conventions is important and requires a complementary approach.

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<sup>2</sup> National Strategy for Sustainable Management of Biodiversity

### **3.6.2 Integration of CITES and CDB objectives into the SNGDB**

The SNGDB (Strategic Nationale de la Gestion Durable de la Biodiversité) conception aimed to integrate all biological diversity management types in accordance with the three objectives of the Convention on Biological Diversity. Therefore, conservation, valorization and exploitation, reduction of the pressures on natural resources are registered among the priorities of this strategy. The national strategy addresses the sustainable management of ecosystems and habitats but it also considers all species market chain approaches, CITES appendix listed species and their use.

### **3.6.3 CITES/CDB synergy opportunities at the policy and regulations level**

During 2003, for consistency purpose, a platform of all conventions dealing with biodiversity management, particularly those derived from the Rio Convention Summit was put in place. The main objective is a better information exchange so that possible duplications could be avoided.

Currently, this platform intervenes in two essential domains:

- At the scientific and technical level, to improve information and data use and to support decision makings not only for CITES, but also for conservation/development actions in the country. It is a network of researchers, practitioners and NGOs.
- Biological resources inventories, management and use, as well as monitoring can be undertaken in a complementary manner between the two conventions. Until now the biodiversity knowledge is not yet comprehensive.
- At organizational and administrative level, the conventions' focal point networks allow to plan the different activities foreseen in the conventions. One of the current action concerns the creation of the access and benefit sharing mechanism including aspects of intellectual property rights.

### **3.6.4 Developing models for sustainable management of natural resources and the principles, as an opportunity of synergy between CDB and CITES**

The adaptation at the national level of the different guidelines elaborated within the CDB context is translated through models for sustainable management of natural resources which are the ecosystem approach and the sustainable use principles.

So Madagascar has adopted a model of sustainable management involving local communities, acted through a law in 1996 addressing the three objectives of the CDB. This law on the transfer of natural resources management to local communities known as Secured Local Management (Gestion Locale Sécurisée or GELOSE) allows direct involvement and empowerment of local communities side by side with district authorities (commune) and public administration.

It is a tripartite contractual management which clarifies the roles of each party in the management of one or several ecosystems and natural resources concerned by the transfer. This kind of management, very requested, allows the local communities to take part in the management and to benefit from the advantages derived from the exploitation of the natural resources.

The management systems put in place for all biodiversity resource classes can be used for the CITES appendix 2 listed species.

### **3.6.5 Pilot projects on flora species necessary to be extended to other species**

Indeed the model of management transfer that has been developed in many sites and ecosystems adopt a technical approach covering several aspects of the management that are based on a management plan conceived in a consensual manner and that defines the different zones and the types of natural resource management that might be used.

It allows the involvement of local communities in the management of the products in their territory. In some cases, they can contribute to the inventory of resources and species within their territory.

Besides, this kind of management allows a sharing of the benefits derived from the exploitation of the natural resources. It can be done through exploitation returns and fees, overheads. In several cases, local communities collect natural products, flora species especially, such as medicinal plants of which some are listed in CITES.

In principle, this law may cover all natural resources, however, it is not sufficiently applied to all resources of ecological and economic value. For the moment, it is underused and adapted for marketed resources. It offers possibilities for CITES appendix 2 species listed that require specific sustainable management.

Other pilot projects are planned for some fauna species related to CITES, requiring a clear chart of responsibilities between the 3 parties in the contract of management transfer. This will be done during the third phase of the Malagasy Environmental Program, stressing on this synergy through management tools capitalization for CITES appendix listed species. This illustrates also the synergy between CITES and CDB, using instruments and tools performed within CDB implementation at national level. It implies specific capacity building for stakeholders, local ones in particular.

### **3.6.6 Factors that inhibit the feasibility of synergy**

The success of synergy between the conventions depends on several factors and fundamental conditions. The first factor is certainly information exchange that could be developed inside the platform. The decisions taken by the Conferences of the Parties should be shared in order to facilitate the implementation in the field. Besides, the information exchange should strengthen the positions and the capacities of the countries in accordance with their own objectives.

Actually, the sustainable management implementation, involving all actors of the development requires management capacity, which is needed in the case of Madagascar, especially at local communities level.

Currently, the advantages of synergy between the conventions are not well known, but there is a real need of decompartmentalizing the conventions in relation to their implementation, in relation to the decision making. This should avoid duplications of actions or contradictory decisions, in relation to the objectives of targeted sustainable development in which the natural resource management holds an important place.

Finally, a common program of work for the two conventions should facilitate this synergy in several domains, information and scientific data, management and approaches, and in monitoring.

### 3.7 Case Study: Seychelles, JOSEPH FRANÇOIS

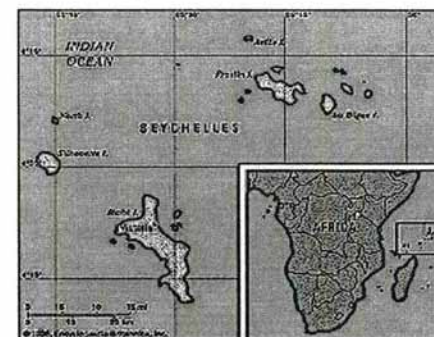
## The Republic of Seychelles

### Country Presentation



Prepared and Presented by Joseph Francois for  
the Expert Workshop Promoting CITES –CBD  
Cooperation and Synergy  
21 – 24 April 2004, Vilm Germany

## The Seychelles Islands



21<sup>st</sup> April 2004, Vilm,  
Germany

Expert workshop on Promoting  
CITES-CBD Cooperation and  
Synergy

## Forest Biodiversity

Valuable source of Genetic resources – threatened  
by domestic and international trades



## Marine Biodiversity

Valuable source of genetic resources - threatened  
by trade both domestic and international trades



## Seychelles' constraints

- Seychelles, as SIDS, only 80,000 inhabitants
- Faces distinct limitation in financial & human resources
- The Multiplicity of Multi-lateral Environmental Agreements thru' reporting requirement, attendance at meetings
- Real constraint on the capacity of the Government
- An issue when Seychelles considers signing any such agreement
- As a result, GOS welcomes initiatives to reduce this workload

## Seychelles -Pilot study

- 2001 Conducted a Pilot Project
- To study the possible harmonization of Information Management and Reporting for Biodiversity – related Conventions
- Funded By UNEP

## Assessment & synopsis of objectives & fundamentals

### **CBD Objectives:**

- Conserving Biodiversity
- Sustainable use
- Fair & equitable benefit sharing from use of genetic resources

### **CITES**

Protect species against over-exploitation caused by international trade and to ensure that the trade is sustainable

## COMMON MODULES

Logical associations of article so that common areas could be identified

MODULES IN COMMON	CONVENTIONS	
	CBD	CITES
International cooperation (including capacity building)	5,12,13,16,17,18,20,26	8
Policies and strategies	6,8,11,12,13,14	8
In situ Conservation	8	4 (scientific Authority)
Ex-situ Conservation	9	8
Sustainable use	10	8
Fair & equitable sharing	YES	NO

## Assessment of reporting requirements in the implementation of the 2 conventions

### CITES

- Stakeholders (Exporters, Importers, Regulators, Administrators, Researchers)
- 2 reports (Annual & biennial) – All Info contained
- Compiled by CITES FP (Office of Conservation Secretariat) – Send for GOS Approval – Submitted to CITES

### CBD

- Stakeholders (Private, Government, NGOs, Researchers)
- Report every 4 years in the form of questionnaire
- Compiled by FP (Office of Conservation secretariat)
- Draft discussed – put on public display – final draft – GOS – Submitted to CBD

### Differences:

Reporting Cycles  
Consultative process  
Lack of contained and centralised database system  
The difference in reporting format

## Reporting Cycle

- Primary barrier which needed crossing (need synchronising internationally):
- CITES (1 year and 2 years)
- CBD (4 years)

## Procedure for Approval

- The same, hence can be done once (but, CITES may benefit from the consultation phases and public involvement)

## Reporting Format

### CITES

Reporting Process & Format clear, concise, functional & effective in reflecting the national status of implementation of the convention

### CBD

Based on Multiple choice format – report is rather lengthy and burdensome to complete

V. difficult for stakeholders to interpret

Format thus needs revisited & other approaches considered

Needs to be mandatory

Could learn from the experience of CITES

## What is needed for synergy in Reporting procedures

- Timing
- Modular
- One building
- Regular consultations
- Reduce duplications
- Standard format
- CBD has a wider mandate , hence can engulf CITES Reporting

## Benefit

- More rapid & accurate reporting
- National projects & priorities to be seen & utilised effectively in the light of intl. commitment
- A better utilisation of national capacity to implement the conventions
- Better use of financial resources (esp. in the field of reporting, research & monitoring)





### **3.8 Case Study: Bolivia, MARIO BAUDOIN**

This presentation considers some factors that have affected the application of the Convention on Biological Diversity (CBD) in Bolivia. It points out the advances achieved and indicates priorities towards the implementation of the objectives of the Agreement. The paper also links the Convention on International Trade in Endangered species, to the more encompassing CBD.

#### **3.8.1 Present situation**

Before going into detail I want to give a brief summary of the country to illustrate the environment in which we are considering the implementation of the CBD.

Bolivia is an extremely diverse country, it is considered among the most diverse in the world. That diversity stems in part from its location in the heart of tropical America. It has an extremely varied landscape and extends from the tropics almost to its southern limit, where it becomes a bridge between the ecosystems of the south temperate zone and Amazonia. Likewise Bolivia presents a gradient between the lowland ecosystems and those of the Andes. It reaches from 150 above sea level up to 6,500 meters, and from permanent snow and deserts to tropical forests. The ecosystems diversity is reflected by a very high diversity of species.

The wealth of Bolivia is not restricted to its native wild fauna and flora. Bolivia has also been home to the development of Andean and lowland cultures for the last 10 to 20 thousand years. About 33 different ethnic groups have developed in adaptation to the different geographical regions. It is also the country with the biggest native population percentage in the Americas. The history of human occupation in our country and region has given the world some of the most important agricultural crops (potato, peanut, quinoa, pineapple, the avocado, chirimoya or anona, papaya, beans, pumpkins, etc). Bavirov considered the region as one of the 5 most important centres in the generation of domestic plants in human history.

Bolivia, a country as big as Unified Germany and France together, has a population of only 8 and a half million inhabitants from which more than 50% live in urban areas. The remaining rural population lives mostly in settlements of up to 2,000 inhabitants but evidently nucleated. However, empty spaces don't exist in the country, and the country in general is used by the local population. Most of the rural areas have very low population densities and the intensity of use of the resources is relatively low.

Bolivia then presents opportunities to develop use options that allow both conservation and development, one of the objectives of the meetings of Rio 92, in an advantageous form, compared to other countries where population densities are high and the impact of use on the resources has been more intense.

On the other hand, in this country 70% of the people are under the level of poverty. In Bolivia life expectancy is on average 64 years, according to estimates of the year 1999, while in some of the areas of high biological diversity life expectancy is reduced to 46 years.

#### **3.8.2 Achievements related to conservation**

What has been advanced in the implementation of the agreements of Rio, and in particular of the CBD in this context?

Objecting the goal of conservation, Bolivia participated as first country in the world, in 1987, in a debt for nature swap. This mechanism has now acquired importance in several Latin American countries, as it facilitates the access to funds for nature conservation. Bolivia was also the first country to establish a National Fund for the Environment. In 1991 we established the National Directorate for Protected Areas and Wildlife, in charge of designing a National System of Protected Areas. The Management of the Fund developed from the beginning a participatory policy for Protected Areas management that can be considered advanced for the region.

Bolivia had in 1965 a vicuñas population of approximately 2,000 animals. In 2000, this population had increased to 55,000 individuals.

During the last 14 years, the surface of Protected Areas, under management, has increased from approximately 1,317,000 hectares, in three protected areas, to 18 million hectares in 15 protected areas covering 17%, of the surface of the country.

It is important to mention that the National System of Protected Areas policy is not one of total and strict protection.

The Indigenous Territory - National Park Isiboro Sécure is a product of a proposal made by local indigenous communities. The National Park Sajama, the Andean Reservation Ulla Ulla, now Protected Area of Apolobamba, has been created in a discussion with the native indigenous populations. Maybe the most important case was the creation of the National Park and Natural Area of Integrated management Kaa-Iya of the Gran Chaco in 1995. The protection of this area was initiated by a proposal of the Guaraní people from the High and Low Izozog.

This protected area, is with 3 and half million hectares the largest protected area of the country and it is managed at the moment by the Guaraní with the support of the National Service of Protected Areas.

### **3.8.3 Achievements towards sustainable use**

If we look closely at the demands of the CBD, we see that, in the first place, it is not only an agreement about conservation or preservation. The CBD establishes three central objectives, the first one is conservation of biodiversity, the second is sustainable development and the third is the fair and equitable distribution of benefits. Although this last objective refers to benefits derived from the use of genetic resources, the southern countries, among them Bolivia, in general have tried to interpret the fair and equitable distribution of benefits as of those derived of all biodiversity use, not of private property.

Bolivia has been the first country in the Andean Community to establish a norm that regulates the application of Decision 391, on access to genetic resources, of the Cartagena Agreement. It has also worked on establishing a national discussion on the topic of traditional knowledge. But until now it has not been possible to generate benefits from the use of genetic resources.

Nevertheless, the country has advanced in some fields of sustainable development related to biodiversity. Some achievements are:

- Vicuña Management, the Declaration of 250 Areas of Communal Management in counties of La Paz, and 50 Communities in Potosí including production of wool.

- The program of sustainable use of the Caiman has completed two years of production with cattle-men's and indigenous community participation.
- The National Strategy on Conservation and Sustainable Use of Biodiversity has been elaborated with 1,800 participants from the whole country. Its application has been approved by the Government and it has been incorporated into the National Strategy of the Fight Against Poverty.
- One million hectares of independently certified tropical forests under management making Bolivia in 2002 the first country in certified surface area in the world.
- The implementation of the National Biotrade Program has begun.

However, in spite of having created several instruments to generate benefits from the sustainable use of the biodiversity, real benefits have not yet been generated for local and indigenous communities on the local level.

### **3.8.4 CITES and the CBD**

#### Ecosystem Approach

The ecosystem approach is a strategy for the integrated management of land, water and living resources that promotes conservation and sustainable use in an equitable way. Thus, the application of the ecosystem approach will help to reach a balance of the three objectives of the Convention. It has been chosen as the way to implement the CBD. Therefore, while the CBD purports to address the problem of conservation in an integral manner, CITES focuses on a species approach and is only concerned with its conservation status affected by international trade. This has resulted in CITES not adequately considering the supporting ecosystems as producer of the species in trade, the impacts of trade, and other aspects of the social and cultural sustainability of conservation actions. Why consider then CITES and its relationship with the CBD?

Because many benefits from biodiversity which could be the basis for sustainability are regulated by CITES. You can draw your own conclusions and I present the following few statements derived from this analysis for your consideration.

### **3.8.5 Why and how do we link CBD with CITES**

- If development is not sustainable, conservation is not possible!
- Benefits have to be generated to be shared!
- We, the developing countries, can not depend from international cooperation in a sustainable way, thus we have to make conservation sustainable!
- Unless local people get something from biodiversity, and are better off, they are going to look for unsustainable options!

### **3.8.6 What with CITES?**

- CITES is a tacit recognition by member states that trade and the market are not by themselves sufficient to guarantee the conservation of wildlife!
- It prescribes actions that put a heavy burden on countries of origin to regulate trade in wildlife!
- It emphasizes the negative aspects of trade!
- CITES competence basically ends with the act of trade across borders! (vs. CBD which considers issues such as ABS and impact on local populations)
- It deals more with command – control (enforcement) measures, less with measures that promote sustainable use!
- It does not truly consider general impacts on systems or other species (positive or negative)!
- It promotes captive breeding and favours the large traders in wildlife!

### **3.8.7 Final comments**

- CITES could greatly benefit from a greater link with the CBD
- CITES could be important in attaining the goals of the CBD and is absolutely necessary for promoting sustainability, it can block it also
- CITES has become too influenced by anti-use groups, both at the national and international levels

### **3.9 CITES and CBD Approaches to Addressing the Trade in Wild Meat and Other Animal Products, TERESA MULLIKEN, BERNARDO ORTIZ**

Mention the wildlife trade and most people will automatically think of the trade in wild animals and animal products such as ivory. The trade in wild plants is considered something else, trade, certainly, but not wildlife trade. Mention the trade in biodiversity products and the opposite is often the case. People's minds quickly turn to plants and plant products, and, more often than not, to plant genetic resources. As will be shown below, the attention given to the trade in wild animal species within the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and the Convention on Biological Diversity (CBD) roughly follows this pattern. The trade in animal species dominates CITES discussions and implementation, while within the CBD, the use and trade of animals receives relatively little attention. Instead, discussions and action within the latter Convention have focused primarily on plant species, including the issues of intellectual property rights and access and benefit sharing.

Thus far there has been little collaboration between CITES and CBD processes with regard to the trade in wild animals and/or their products, the trade in the meat of wild species, or 'bushmeat', being the main issue to have drawn attention in both Conventions. By contrast, there has been significant progress in developing greater coherence with regard to implementation of the two Conventions for plant species, as demonstrated by the Global Strategy for Plant Conservation (e.g. see OLDFIELD, this volume).

In the following pages we briefly describe how CITES and the CBD have recognised and responded to the use and trade of wild animal species at the international level. Specific attention is paid to the trade in animal species used for food given the relative prominence of this issue within CBD discussions. This is followed by a review of institutional changes at the national level following agreement of the CBD, using the example of Latin America. We close by identifying opportunities for enhancing CITES-CBD synergy with regard to the use and trade of wild animal species.

#### **3.9.1 CITES and animal species vs. the CBD and biodiversity**

One of the most fundamental differences between CITES and the CBD is the scope of their application in relation to life on earth. The CBD is concerned with the conservation and sustainable use of all biodiversity, defined in Article 2 as "the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological processes of which they are a part; this includes diversity within species, between species and of ecosystems." The CBD therefore covers all animal species, including domesticated species.

By contrast, the provisions of CITES only apply to animal species that have been listed in one of the Convention's three Appendices, the term species being defined as "any species, subspecies, or geographically separate population thereof" (Article I). Each Appendix accords a different level of international trade controls. Very briefly, Appendix I bans international trade except in "exceptional circumstances", Appendix II requires such trade to be maintained within sustainable levels and for specimens to have been acquired in compliance with national conservation laws, and Appendix III requires documentation of the country of origin of specimens in trade. Species are included in CITES Appendix I and II through a two-third majority decision of the Parties, or member states, and in Appendix III upon request by individual

Parties who seek other Parties' assistance with controlling trade in species occurring within their borders. More detailed information on CITES and the CITES Appendices can be found at [www.cites.org](http://www.cites.org).

At present, there are roughly 5000 animal species listed in the CITES Appendices (Table 1). In some cases, entire orders have been included (all primates, for example), while in others only a small number of species have been listed (less than 100 fish species are included in the Appendices, for example). Many CITES-listed species and/or species groups have a relatively high public profile, e.g. whales (Cetacea spp.) and cats (Felidae spp.), all of which are covered by CITES. Others, such as birdwing butterflies *Ornithoptera* spp., are relatively less well known. The apparent numeric dominance of plant over animal species reflects the listing in Appendix II of the entire family of orchids *Orchidaceae* spp., which numbers some 25000 species.

**Table 1: Numbers of taxa in the CITES Appendices\***

	Appendix I	Appendix II	Appendix III
<b>Mammals</b>	228 spp. + 21 sspp. + 13 popns	369 spp. + 34 sspp. + 14 popns	57 spp. + 11 sspp.
<b>Birds</b>	146 spp. + 19 sspp. + 2 popns	1401 spp. + 8 sspp. + 1 popn	149 spp.
<b>Reptiles</b>	67 spp. + 3 sspp. + 4 popns	508 spp. + 3 sspp. + 4 popns	25 spp.
<b>Amphibians</b>	16 spp.	90 spp.	-
<b>Fish</b>	9 spp.	68 spp.	-
<b>Invertebrates</b>	63 spp. + 5 sspp.	2030 spp. + 1 ssp.	16 spp.
<b>Plants</b>	298 spp. + 4 sspp.	28 074 spp. + 3 sspp. + 6 popns	45 spp. + 1 ssp. + 2 popns
<b>Totals</b>	827 spp. + 52 sspp. + 19 popns	32 540 spp. + 49 sspp. + 25 popns	291 spp. + 12 sspp. + 2 popns

\* Note that these numbers are approximate because there are no agreed lists for some of the higher taxa. spp = species, sspp = subspecies; popns = populations.

Source: T. INSKIP, UNEP-WCMC, in litt. 27 August 2003.

Among the animal species included in the CITES Appendices are:

- all species of primate, whale, cat, elephant *Elephantidae* spp., rhino *Rhinocerotidae* spp. and bear *Ursidae* spp.

- approximately 1500 species of birds (including all but three of the over 300 species of parrot Psittaciformes spp., all raptors Falconiformes spp., and a variety of songbirds Passeriformes spp.
- a variety of reptile species including all pythons Pythonidae spp. and boas Boidae spp., all crocodilians *Crocodylia* spp., all monitor lizards *Varanus* spp. and Tegu lizards *Tupinambis* spp.
- fish including all sturgeons and paddlefish Acipenseriformes spp., seahorses *Hippocampus* spp. and Asian Arowana *Scleropages formosus*
- several marine invertebrates, including various stony corals, giant clams Tridacnadae spp., and Queen Conch *Strombus gigas*
- several insects, e.g. birdwing butterflies Ornithoptera spp., and arachnids, e.g. tarantulas *Brachypelma* spp.

Numerous animal species known to be in international trade and for which there is concern that trade exceeds sustainable levels have not yet been listed in the CITES Appendices, particularly marine species. This reflects a combination of Parties not having proposed these species for CITES listing, and the rejection of proposals put forward for consideration by meetings of the Conference of the Parties (COPs). CITES Parties have increasingly chosen to respond to such trade concerns in several ways.

In some cases, sometimes following a failed listing proposal, the Parties have taken a collective decision to encourage further review and/or action relating to trade in particular unlisted taxa through the adoption of Resolutions and/or Decisions. At COP 9 (Fort Lauderdale, USA, 1994), for example, Italy proposed the Appendix II listing of four species of ‘edible nest swiftlets’ *Collocalia* spp., the nests of which are harvested and traded in large quantities for use in soup in East Asia. The proposal was subsequently withdrawn in conjunction with the adoption of Resolution 9.15 Conservation of Edible-nest Swiftlets of the Genus *Collocalia*. The Resolution called for a combination of scientific research, encouragement of industry involvement in developing conservation and management measures, and a review of existing harvest and trade controls. It also called for the convening by the CITES Secretariat of a workshop to establish conservation priorities and actions toward achieving sustainable management of swiftlet nest harvesting.

At COP 11 (Gigiri, Kenya, 2000), the Parties adopted a proposal to list all species in the Asian freshwater turtle genus *Cuora* in Appendix II and also agreed Resolution Conf. 11.9 Conservation of and Trade in Tortoises and Freshwater Turtles, which responded to the largescale and unsustainable trade in these species for use as food, medicine and pets. This Resolution called on CITES Parties and the CITES Secretariat to undertake a number of actions aimed at the conservation of a much wider group of Asian tortoises and freshwater turtles, and was followed, at COP 12 (Santiago, Chile, 2002) by the acceptance of further listing proposals for this group. The Parties also agreed a series of actions to address concerns regarding unsustainable shark fisheries and trade as specified in Resolution Conf. 12.6 Conservation and Management of Sharks and related Decisions. The Resolution sought to catalyse greater action for sustainable management, including action associated with processes taking place under the auspices of the Food and Agriculture Organization of the United Nations (FAO), e.g. the International Plan of Action on Sharks. Two species of shark were also listed in Appendix II at this meeting, considered a watershed with regard to the engagement of CITES in marine fisheries issues. Other species consumed as food and ad-



dressed in this manner include sea cucumbers (Holothuridae spp., one species now listed in Appendix III) and seahorses (now listed in CITES Appendix II). Parties have also taken unilateral actions to prompt action on unlisted species through Appendix III listings, as Australia has done for Great White Shark *Carcharodon carcharias*.

CITES has been interpreted as relating only to wild species. However, this distinction could be said to be blurring, as hybrids of animal species included in the CITES Appendices are also considered to be covered by the Convention, as are forms resulting from intensive captive breeding, e.g. the many colour mutations produced for lovebirds *Agapornis* spp.. As a result, it could be argued that CITES is increasingly covering domesticated forms as well as what might be considered truly wild species. As noted above, the CBD covers all biodiversity, including domesticated species, although thus far the emphasis within CBD discussions has primarily been on wild species. Specific reference to domestic species is made, however, e.g. within the Programme of Work on Agricultural Biodiversity.

Although the Articles of both Conventions establish contrasting approaches with regard to the scope of biodiversity to be addressed, there is clearly significant overlap in their biological mandates. As well as those species covered by the CITES Appendices, as shown above, CITES also has the potential to help address concerns regarding unsustainable use and trade of non-CITES species.

### **3.9.2 Consideration of use and trade of animal species during CITES and CBD meetings**

The agendas and discussions taking place within CITES and CBD fora illustrate the relative dominance of animal and plant related issues within each Convention.

CITES COPs, which are held every two to three years, are dominated by discussion of animal-oriented issues. This is illustrated by a review of the agenda of the most recent CITES COP (COP 12, Santiago, 2002), where all but 3 of the 19 agenda points under the heading “Species trade and conservation issues” related specifically to animals, in contrast to 2 relating specifically to plants. Further, several wider agenda points that one might consider to be equally applicable to both plants and animals in fact dealt almost solely with animal-based issues. The agenda point on Cooperation with Other Organizations, for example, addressed co-operation with the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), the Inter-American Convention for the Protection and Conservation of Sea Turtles, the International Whaling Commission, and the FAO. In the latter case, the core issue was the trade in marine fisheries products, not issues related to terrestrial species.

CITES has established two scientific committees, one specifically focused on animals and the other on plants. The Animals and Plants Committees address concerns related to the biological aspects of CITES implementation, for example, whether trade volumes in particular Appendix II species are being maintained within sustainable levels, the design of trade controls for captive breeding operations for Appendix I species, and nomenclature. The work programmes of the Committees are set by the COP, to which they report. The relatively higher emphasis on animals over plants within CITES, especially among NGOs, is demonstrated in Table 2, which compares participation at Animals and Plants Committee meetings held during August 2003 (Geneva, Switzerland).

**Table 2: Participation in CITES Animals and Plants Committee Meetings (August 2003)**

Number	Animals Committee	Plants Committee
Participants from Parties	84	54
Participants from IGOs	10	4
International NGOs represented	25	4
National NGOs represented	15	3

The CITES Standing Committee considers a variety of issues related to CITES implementation, e.g. review of CITES implementing legislation and reporting. The Committee also considers issues related to enforcement of CITES trade controls, and makes recommendations for remedial actions in cases where implementation and/or enforcement problems are identified. As with COPs, discussions during Standing Committee meetings tend to be dominated by issues more concerned with animals than plants.

Discussions during CBD COPs are organized around thematic programmes (marine and coastal biodiversity, agricultural biodiversity, forest biodiversity, island biodiversity, the biodiversity of inland waters, dry and sub-humid lands and mountain biodiversity) and cross-cutting issues. Within the CBD, the Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA) considers a variety of issues related to the use of wild animal species. As with the CITES committees, the work programme of SBSTTA is set by the COP, and is very strongly linked to the wider CBD agenda. Formal working and expert groups are also established within the CBD to consider specific issues.

Among the issues considered first with SBSTTA and subsequently within the COP are the programmes of work developed for each of the thematic programmes. Threats in relation to unsustainable harvest of animal species receive significant attention with regard to inland waters and marine and coastal ecosystems, but not in the context of forest ecosystems. Specific reference to the use and trade of animal species within several thematic programmes of work are noted below.

It is relevant to note that there is relatively little cross participation in respective meetings of CITES and the CBD by designated representatives of the Parties or by staff from the Convention Secretariats. Two important departures from this norm deserve recognition, however. The CITES Secretariat participated in three of the workshops through which the CBD developed the Addis Ababa Principles and Guidelines for Sustainable Use of Biodiversity, adopted by CBD COP 7 (Kuala Lumpur, 2004; Decision VII/12). The CITES Plants Committee was actively involved in the development of the CBD Global Strategy for Plant Conservation. This interaction demonstrates the inter-linkages in issues being addressed by the various Convention bodies, and could serve as an example for increased cross-participation in future.

### **3.9.3 Potential CITES-CBD linkages in the context of CBD thematic programmes**

The organization of CBD discussions and programmes of work around thematic programmes provides a possible structure for identifying potential areas for increased collaboration in future with regard to the

use and trade of animal species. Although CITES approaches are structured taxonomically and in some cases, by the type of commodity in trade (e.g. live animals, medicinal products), rather than by biome, general areas of correspondence can nevertheless be identified.

### The Expanded Programme of Work on Forest Biodiversity

The Expanded Programme of Work on Forest Biodiversity agreed at CBD COP 6 (The Hague, Netherlands, 2002; Decision VI/22) contains numerous elements relevant to the use and trade of animal species, and within Programme Element 1, a specific Goal (4) “To promote the sustainable use of forest biological diversity.” Reference is made to “non-timber forest products” and “non-timber forest resources”, and an Objective (2) included “To prevent losses caused by unsustainable harvesting of timber and non-timber forest resources.”

The use of wild species for meat, or “bushmeat” is perhaps the most high profile ‘animal trade’ issue considered thus far within the CBD. The expanded programme of work on forest biological diversity includes an objective calling for establishment of a liaison group on non-timber forest resources and organization of a workshop on this topic in collaboration with the the UN Forum on Forests, the CITES Secretariat, IUCN-The World Conservation Union and other members of the Collaborative Partnership on Forests, and other relevant organizations. The working group was further tasked with developing a joint work plan to bring harvesting of non-timber forest products within sustainable levels, with a particular focus on bushmeat. Included in the working group’s mandate is:

- participatory stakeholder consultation to identify and prioritise issues with respect to unsustainable harvest, particularly bushmeat and related products;
- provision of advice on the development of policies, enabling legislation and strategies to promote sustainable use of and trade in NTFPs, particularly bushmeat and related products;
- provide advice on appropriate alternative sustainable livelihood technologies and practices for the affected communities; and
- provide advice on appropriate monitoring tools.

Funding for the convening of a workshop was not secured prior to SBSTTA 9 (although there are indications it may be secured in the near future). Instead, the 32 members of the liaison group nominated by participating organizations were invited to comment on a draft discussion document prepared in collaboration with the Center for International Forestry Research (CIFOR). In this document, the term “bushmeat and related products” was annotated to refer to “inter alia skins, bones, horns or other parts of animals,” i.e. it would seem, anything but a whole animal. Only a small number of comments were posted to the electronic forum developed to facilitate commenting on the draft document. Elements of the resulting document were presented to SBSTTA 9 as “Sustainable Use: Development of Practical Principles, Operational Guidance and Associated Instruments” (UNEP/CBD/SBSTTA/9/9/Add.2). In addition, the CBD Secretariat contracted CIFOR to prepare a paper specifically on bushmeat, which is forthcoming (G. VAN TOL, CBD Secretariat, in litt. to T. Mulliken, TRAFFIC International). It is unclear whether this paper will focus only on the use of wild species for meat, or on the wider use of wild species as referred to above.

The work programme also calls for development of “any necessary legislation for the sustainable management and harvesting of non-timber forest resources,” and the solicitation of “input from Parties, other countries and relevant organizations on ways and means to encourage and assist importing countries to prevent the entry of unsustainably harvested forest resources, which are not covered by the Convention on International Trade in Endangered Species of Wild Fauna and Flora, and consider this information as a basis for further steps on this issue. It is perhaps surprising that no mention was made here of working with CITES to include such species in the CITES Appendices as an aid to bringing unsustainable harvest under control.

Bushmeat is also relatively prominent in the CBD Secretariat paper Sustainable Management of Non-Timber Resources, commissioned from CIFOR and part of the CBD Technical Series (No. 6). Published in 2001, the paper focuses primarily on plant-based products but does draw specific attention to the use of wild species for meat.

The bushmeat trade has also been flagged as an issue of specific concern by CITES Parties. Decision 11.166 agreed during CITES COP 11 tasked the CITES Secretariat with:

- convening a “working group of interested range and donor States to examine issues raised by the trade in bushmeat, with the aim of identifying solutions that can be willingly implemented by range States”; and
- inviting organizations such as the International Tropical Timber Organization (ITTO), the CBD Secretariat, FAO and others to participate in the working group.

Several Central African Parties volunteered to form such a working group. The resulting CITES Bushmeat Working Group (CBWG) has representatives from Cameroon, the Central African Republic, Congo, Democratic Republic of the Congo, Equatorial Guinea and Gabon, and has therefore focused its discussions and actions on Central Africa. A wider range of Central and West African countries have expressed their interest in the work of the group. Although the CBD Secretariat has been invited to participate, thus far it has not been represented at CBWG meetings.

The rationale for CITES taking on the bushmeat issue was expressed by HUNTER (2001) during an informal meeting of the group as:

“...CITES concerns the regulation of international trade in species that may be endangered or threatened by that trade. However, CITES recognizes that that issue isn’t resolved simply by placing species on the CITES Appendices of endangered and threatened species. Managing the species “back home” on the ground in order to make trade sustainable is the key to success, and was recognized in the CITES Strategic Plan. The need to build management capacity is implicit in this concept.”

HUNTER’S comments reflect the nature of the commercial trade in wild species for meat in Africa and also Latin America, which commonly involves rural to urban trade flows, but less commonly crosses international borders, although illegal trade is said to be increasing (COP 12 Doc. 62). The same is not the case in Asia, however, where very large quantities of terrestrial and freshwater species enter international trade for use as food.

As noted above, thus far the group has focused its efforts on Central Africa, where some of the greatest alarms have been raised with regard to the bushmeat trade, particularly with regard to large primates. It

has been successful in convening several meetings, has developed an action plan, and, in conjunction with the Bushmeat Crisis Task Force, developed and submitted a successful funding proposal to assist with implementing this plan. Among the activities proposed and/or underway are:

- A policy and legislation review;
- Training for bushmeat law enforcement and monitoring and development of a related database;
- review of wildlife management authority structures;
- public awareness campaigns; and
- development of wildlife management guidelines within logging concessions

During COP 12, the mandate of the group was extended to COP 13, where it will report on its activities.

Thus far the trade in other animal-based forest products has failed to gain specific prominence either in the CBD forest programme of work or Secretariat publications. The CIFOR paper mentioned above does not discuss the trade in animal products other than meat except through a reference in a table based on IQBAL (1993) and THOMAS AND SCHUMANN (1993), which, while differentiating plant-based products according to use and/or type, lumps all wild animal products together in a single category. The section related to medicinal use mentions various plant species but makes no reference to the very large use and trade of animal products for medicinal purposes, for example.

By contrast, CITES has paid a significant amount of attention to the many other uses of forest species, which includes a combination of trade in live animals and “parts and derivatives”, the latter of which are traded both as raw materials and finished products. The live animal trade is dominated by a variety of bird and reptile species traded for the pet trade, with a smaller number of animals traded for zoological and circus displays, research, re-stocking and other purposes.

The trade in animal products is far more diverse, ranging from medicines to tourist souvenirs and trophies. Arguably the most well-known and contested of these trades is that of elephant ivory, with the links between this trade (legal and illegal), poaching rates and the status of elephant populations being a major feature of debate during every CITES COP since 1989, when African Elephant *Loxodonta africana* was transferred from Appendix II to Appendix I.

Significant attention has also been paid within CITES to the trade in wild species products for use in traditional East Asian medicine. This issue had a high profile during the 1990s and was the subject of a specific Resolution, Conf. 10.19 Traditional Medicines. It continues to be the subject of attention with regard to particular species, e.g. rhinos, Tigers *Panthera tigris*, Asian pangolins *Manis* spp., bears and musk deer *Moschus* spp.. Little attention has been paid within CITES to medicinal use in other regions, e.g. Africa, where a variety of animal species are used in traditional medicine. This is likely to reflect in part the fact that traditional medicine systems in other regions are less formalised, and therefore less transparent, and that the trade in species used in other regions appears to be primarily domestic rather than international. Efforts under the auspices of the CITES Animals Committee to maintain a global list of species traded internationally for medicinal purposes were ultimately abandoned, although preliminary lists were produced.

### Programme of Work on Dry and Sub-Humid Lands

The Programme of Work on Dry and Sub-Humid Lands adopted by CBD COP 5 (Nairobi, Kenya, 2000; Decision V/23) contains several elements relevant to the use and trade of CITES-listed species. This includes for example, a variety of targeted actions aimed at:

- Cooperation with the Convention on International Trade in Endangered Species (CITES) with regard to rare and endangered species in dry and sub-humid lands;
- Promoting sustainable harvesting including of wildlife, as well as ranching, including game-ranching;
- Exploring innovative sustainable uses of the biological diversity of dry and sub-humid lands for local income generation, and promoting their wider application; and
- Developing markets for products derived from the sustainable use of biological diversity in dry and sub-humid lands, adding value to harvested produce.

Many CITES-listed animal species occur in drylands, their uses ranging from harvest and trade as pets, food, hides, trophies and ornamentation. These range from various reptile species, e.g. Pancake Tortoise *Malcochersus tornieri* to African Elephant, the latter occurring in both forest and dryland areas. As with the forest programme of work, there would seem to be significant scope for expanding collaboration between CITES and the CBD in delivering on the programme of work for drylands and sub-humid areas.

### Inland Waters Biodiversity Work Programme

As for the other biome focused programmes of work, the Inland Waters Biodiversity Work Programme contains elements to the use and trade of CITES-listed species. Reference is made to the sustainable use of biodiversity within the programme of work contained within CBD Decision IV/4 Status and Trends of the Biological Diversity of Inland Water Systems and Options for Conservation and Sustainable Use, revised during COP 7 with Decision VII/4 Biodiversity of Inland Water Systems. The recently released Status and Trends of Biodiversity of Inland Water Systems (RAVENGA AND KURA, 2003) contains considerable information regarding the trade in freshwater species, including freshwater turtles, used as food, medicine and pets, crocodilians, used for their skins and meat, and several snake species. Reference is also made to hunting of a variety of mammals inhabiting freshwater ecosystems, e.g. *Hippopotamus* (hunted for meat and ivory) and a variety of otters (hunted for fur and meat). Reference is also made to the listing of many of these species in the CITES Appendices. The Revised Programme of Work annexed to Decision VII/4 makes repeated references to sustainable use and calls on the CBD Executive Secretary to develop further collaboration with a variety of institutions, including CITES. However, CITES is not named as either a “main partner” or “other collaborator” under any of the specific work programme elements.

CITES has had a very active programme of work related to these and other freshwater species, particularly certain crocodilians, e.g. Nile Crocodile *Crocodylus niloticus*, sturgeon and paddlefish (which spend their entire lifecycle and/or spawn in freshwater) and, more recently, Asian freshwater turtles. It would

seem that there is room for much more active engagement between CITES and CBD processes in delivering on the shared objectives of sustainable use and conservation.

#### Multi-Year Programme of Work on Marine and Coastal Biological Diversity

The sustainability of the use of marine resources is a central theme of the revised programme of work on marine and coastal biodiversity adopted by CBD COP 7 (Decision VII/5 Marine and Coastal Biodiversity). The second programme element of the programme of work has as its goal: “to ensure the conservation and sustainable use of marine and coastal living resources”. Among the suggested activities under this goal is implementation of the 1995 FAO Code of Conduct for Responsible Fisheries, elimination of destructive fishing practices and restoration and maintenance of fisheries stocks to sustainable levels by 2015. The programme of work contains an entire Appendix (Appendix 2) regarding “Physical Degradation and Destruction of Coral Reefs, Including Cold Water Corals”, within which are elements related to sustainable use. Given that a relatively large number of CITES-listed species are coral reef dwelling (including stony corals themselves, which are included in CITES Appendix II), there would seem to be important opportunities for greater collaboration on the delivery of shared aims. This includes, for example, addressing the impacts of fishing practices on the surrounding ecosystem as well as on the species itself. It is interesting to note that the CBD technical paper on sustainable management of non-timber forest resources notes that the use of fish, shellfish and crustaceans is often disregarded in discussions related to the role of wild species as food (CBD SECRETARIAT, 2001).

The CITES Appendices include a variety of coastal and marine species, ranging from the corals noted above to great whales. As with terrestrial and freshwater species, these species are used for a variety of purposes, including for the aquaria trade (e.g. live corals), food (e.g. Whale Shark *Rhincodon typus*), medicine (e.g. seahorses), ornamentation (e.g. hard corals) and tourist souvenirs. In fact, many CITES listed marine species are used for multiple purposes. The meat of giant clams and Queen Conch is used for food and the shells sold as ornamentation and tourist souvenirs, for example. Giant clams are also sold to the aquarium trade, as are seahorses, the latter also being sold as tourist souvenirs as well as used medicinally.

Many of the marine species currently included in the CITES Appendices are coastal, although some, such as the great whales, are also found on the high seas, i.e. outside the territorial waters of any country. The inclusion of commercial fish species within CITES has been one of the more hotly contested issues considered by the Parties in recent years, with proposals to include several shark species and toothfish *Dissostichus* spp. sparking strong debate. Among the questions raised are those with respect to coherence with other intergovernmental processes and organizations, e.g. FAO and CCAMLR. No such discussion has yet been raised with regard to linkages to CBD processes, with the potential for an active programme of collaboration remaining to be explored.

#### **3.9.4 Potential CITES-CBD linkages in the context of CBD cross-cutting issues**

The organization of CBD discussions and programmes of work around cross cutting issues provides a further means of focusing collaboration between the CBD and CITES.

This is particularly the case with regard to achieving the objective of sustainable use of biodiversity, which is the subject of two other papers in this volume and so is covered only briefly.

### Sustainable use

Sustainable use of biodiversity is a core objective of the CBD and directly linked to the CITES objective of ensuring that “no wild species of wild fauna and flora becomes or remains subject to unsustainable exploitation because of international trade,” as articulated in the CITES Strategic Plan. The relationship between determining whether or not exports are within sustainable levels (non-detriment findings) under CITES and the CBD Addis Ababa Principles and Guidelines for the Sustainable Use of Biodiversity have been addressed in ROSSER (this volume) and JENKINS (this volume) so will not be discussed further here.

As indicated above, each of the CBD biome-focused programmes of work also includes components relevant to the sustainable use of wild species. Specific Decisions, e.g. Decision VII/27 Mountain Biological Diversity, also contain recommendations relevant to sustainable use of wild species. Decision VII/27, for example, includes among its goals “To promote the sustainable use of mountain biological resources”, including to “Promote the sustainable use of economically valuable wild plants and animals, as an income generating activity for the local inhabitants.”

### Genetic resources, access and benefit sharing

Much of the international debate regarding the use of genetic resources and the related issues of access and benefit sharing has surrounded the use of plant genetic resources. This has been a major focus of discussion within the CBD, but little touched on within CITES. Discussions of access to and benefit sharing from the use of animal genetic resources has been relatively limited within the CBD, although this issue is included within the remit of CBD Decision III/11 Conservation and Sustainable Use of Agricultural Biodiversity. This Decision seems to relate primarily to domesticated species, however.

Discussions regarding controls on the movement of animal genetic resources are increasing within CITES. At COP 12, for example, concerns were raised regarding a proposal calling for simplification of permitting requirements to allow “the timely movement of shipments” of “time sensitive” biological samples. After some debate, the Parties voted to allow such simplification for some products, e.g. small quantities of blood, tissues, cell lines, tissue cultures and DNA “where biological samples of the type and size specified...are urgently required: A. in the interest of an individual animal; B. in the interest of the conservation of the species concerned or other species listed in the Appendices; C. for judicial or law enforcement purposes; D. for the control of diseases transferable between species listed in the Appendices; or E. for diagnostic or identification purposes” (Resolution Conf. 12.3 Permits and Certificates). The types of specimens qualifying for this exemption were listed in an annex to the Resolution. A proposed annotation to the CITES Appendices that would have established that certain materials were not subject to CITES provisions (DNA produced through synthetic processes, synthetically produced medicines and other pharmaceutical products such as vaccines, urine and faeces, and fossils) was also considered but subsequently withdrawn on technical grounds. There has also been some discussion of the issue of access and benefit sharing with regard to certain taxa, e.g. poison arrow frogs (*Dendrobatidae* spp.).



The trade in captive-bred specimens has also been raised in the context of the use of genetic resources. CITES views the trade in captive-bred specimens as less likely to be detrimental to wild populations than trade in wild-caught ones, and therefore provides certain exemptions for controls on the trade in captive-bred wildlife. No distinction is made regarding whether or not trade is originating from countries where the species occurs naturally. As noted in JENKINS (this volume), thus far there has been little discussion of the issue of benefit sharing in the context of the trade of captive-bred species sold within and/or traded from non-range States.

Little attention has been paid within either Convention to access to wildlife resources and associated benefit sharing more widely, i.e., as this relates to the trade in live animals and wildlife products, and the sharing of the benefits of this trade to support development, especially in rural areas. These issues are alluded to in discussions of economic incentives and incentive measures within both CITES and CBD fora, and there would seem to be room for far greater attention to be paid to this aspect of the trade.

### Alien invasive species

The potential threat to biodiversity posed by the introduction of alien invasive species is not addressed within the text of the CITES Convention. However, this issue has been raised during CITES COPs, and, at COP 10 (Harare, Zimbabwe, 1997), several Decisions were agreed calling for actions by the Parties, the Animals and the Plants Committees. The Parties were asked to: recognise and consider the problem of invasive species when designing national legislation and regulations; to consult “when possible and applicable” with CITES Management Authorities in potential countries of import when considering exports of potentially invasive species; and to consider possibilities for synergy between CITES and the CBD with regard to addressing this issue (Decision 10.54). The Animals Committee was tasked with co-operating with the IUCN/SSC Invasive Species Specialist Group in the implementation of the IUCN Guidelines for the Prevention of Biodiversity Loss Due to Biological Invasion (IUCN/SSC INVASIVE SPECIES SPECIALIST GROUP, 2000) (Decision 10.76). The Animals Committee considered at its most recent meeting that such co-operation had taken place and that the relevant Decision had therefore been fulfilled.

By contrast, the CBD specifically addresses the issue of alien invasive species within the Convention text (Article 8(h)), and the issue has been considered at length within both SBSTTA meetings and COPs. During CBD COP 7, the Parties agreed Decision VII/13 Alien Species that Threaten Ecosystems, Habitats or Species, which specifically calls for further collaboration with CITES (VII/13.4.c). Further, the Parties note in this Decision that “gaps in the regulatory frameworks exist...notably with regard to species that are invasive but do not qualify as... animal diseases under the regulations of the Office International des Épidémiologies and other international agreements with regard to the following potential pathways: intentional introductions of alien species for non-food purposes including certain aspects of horticulture and trade in pets and aquarium species...transnational and ex situ breeding projects with alien species as sources of intentional or unintentional introductions...aquaculture escapes, bait and pet releases...” (VII/13.7). Decision VII/13 requested SBSTTA to establish an ad hoc technical expert group to report back with recommendations prior to COP 9. Invasive species issues are also referred to under the various biome-oriented

programmes of work. CITES has been asked to assist with identifying potentially invasive species in the aquarium industry under the programme of work on inland water ecosystems (Decision VII/4).

### **3.9.5 Potential CITES-CBD linkages in the context of other cross-cutting issues**

There are additional areas of possible linkages between CITES and the CBD with regard to the trade in animal species. Although not formally specified as ‘cross cutting issues’ within the CBD, they merit brief consideration here.

#### Reduction of illegal harvest and trade

A key element of achieving the goals of both CITES and the CBD is the prevention of trade in violation of the Conventions’ norms and associated national implementing legislation. Prevention, detection and penalization of illegal trade have been central elements of CITES implementation since its inception, and continue to be a major focus today. Illegal trade has not been a major focus of CBD discussions, but specific reference is made to it within Decision VI/22 Forest Biological Diversity, presumably as a result of growing concern regarding illegal logging.

Contained within Programme Element 2 (Institutional and Socio-economic Enabling Environment) of the Forest Programme of Work is the specific objective to “Promote Forest Law Enforcement and Address Related Trade” (Objective 4). Although clearly written with plant products, and specifically timber, in mind, the activities called for are equally applicable to animal species:

- Invite Parties, Governments and relevant organizations to provide information on a voluntary basis to enable a better comprehension of the effects of unsustainable harvesting, exploitation of other forest resources and associated trade, as well as on the underlying causes, on forest biological diversity. On the basis of dissemination of this information countries may decide to take relevant measures such as enforcement actions.
- Evaluate and reform, as required, legislation to include clear definition of illegal activities and to establish effective deterrents.
- Develop methods and build capacity for effective law enforcement.
- Develop codes of conduct for sustainable forest practices in logging companies and the wood-processing sector to improve biodiversity conservation.
- Encourage and support the development and implementation of tracking and chain-of-custody systems for forest products to seek to ensure that these products are legally harvested.
- Invite Governments and relevant organizations to develop and forward to the Secretariat case-studies and research on the impacts of unsustainable timber and non-timber harvesting and related trade.

CITES Management Authorities, Customs, other government law enforcement staff and the CITES Secretariat have a great deal of combined experience in designing legislation, chain of custody systems and related enforcement actions aimed at more effectively controlling the trade in forest (and other) wildlife products. This experience could be applied to assisting with implementation of the CBD, including in

conjunction with the trade in non-CITES species. Equally, lessons being learned and techniques being developed with regard to chain of custody controls under the auspices of the CBD could usefully be applied within a CITES context.

#### Achieving development objectives

CITES was established to address the conservation of wild species in international trade, not the contribution of that trade to development within the countries where the species occur. However, CITES recognises the economic and other values of wildlife in its preamble, and discussions within CITES of the role of the wildlife trade in rural development is increasing. This includes, for example, discussions of the contribution of the trade to rural livelihoods and a greater emphasis on looking at incentive-based approaches to achieving CITES aims.

The CBD was established in order to achieve both conservation and development objectives, with meeting the needs of the poor and of local and indigenous communities among its broader aims. Despite its narrower focus, CITES can play an important role in helping achieve the wider aims articulated within the CBD. By helping ensure that wildlife trade is maintained within sustainable levels, CITES can also help ensure that wildlife resources are available for future as well as present use. By helping prevent trade in violation of local and national trade controls, CITES can support wildlife management initiatives designed to deliver positive development outcomes. And by providing data on the number and types of specimens in trade, CITES can help exporting countries to assess the scale of the trade and identify mechanisms to increase the flow of benefits from that trade to producers.

#### Animal welfare

CITES contains specific provisions related to the care of live specimens in international trade. Management Authorities in countries of export are required to be “satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment”, and, for the import of Appendix I specimens, that the Scientific Authority of the importing country is “satisfied that the proposed recipient of a living specimen is suitably equipped to house and care for it.” A series of working groups and Resolutions have been established to encourage the implementation of these provisions. No reference is made to animal welfare issues within the text of the CBD, nor has this issue been a major topic of discussion within that Convention.

### **3.9.6 CITES and CBD implementation at the national level – from “wildlife” to “biodiversity”**

The United Nations Conference on Environment and Development, more commonly known as the 1992 Rio Earth Summit, is well known as the birthplace of several major environmental agreements, including the Convention on Biological Diversity. Perhaps less well appreciated are the impacts of the Rio outcomes on management of the wildlife trade in many countries, e.g. in Latin America.

One of the major consequences of the coming into force of the outcomes from Rio was a generalised re-organization of national environmental institutions in most Latin American countries. As the CBD recognized the intersectoral nature of biodiversity conservation, several countries reacted by creating high level commissions (some reporting directly to the office of the president) with the task, among others, of co-ordinating actions that would link the biodiversity and development agendas as a key step to open avenues for sustainable development. These include the Comisión Nacional para el Conocimiento y Uso de la Biodiversidad (National Commission for the Knowledge and Use of Biodiversity, CONABIO) in Mexico, Consejo Nacional del Ambiente (National Council for the Environment, CONAM) in Peru, Comisión Nacional de Medio Ambiente (National Commission for the Environment, CONAMA) in Guatemala and Chile, and the Comisión Asesora Ambiental (Environmental Advisory Commission, CAAM) in Ecuador. All but CAAM, which was absorbed into the Environment Ministry created in 1997, are still active and functioning.

The early 1990s coincided with the development of new national constitutions in several countries, each of which integrated environmental and sustainable development concepts and objectives in their texts as part of the modernisation of the outlook of Latin American societies at the end of the 20th century. For example, Bolivia's updated constitution (1994) presented several "revolutionary" concepts, among others, those on public participation in decision making processes, and the creation of a Sustainable Development Ministry that fused development and conservation agendas in a single institution. With the intention of upgrading the political profile of the environmental agenda, some countries (for example Argentina, Colombia and Venezuela) created environment ministries (or equivalent bodies) from their former natural resource conservation agencies, which previously had almost universally been a subset of agriculture and livestock ministries.

In general, it could be concluded that in the last 15 years, the political, institutional and administrative organization of Latin America's environment sector has significantly evolved towards higher profile, decentralised and intersectoral schemes, reflecting the evolution of the international environmental agenda and each country's own recognition of the need to take such an approach. However, this has occurred simultaneously with the widespread trend of reducing the size and competence of national governments, which in itself has been accompanied by economic and political crisis in most of the countries. As a result many Latin American countries now have modernised environmental agendas managed by institutions, some pre-existing, some newly created, that lack the overall capacity to deliver their political co-ordination, policy implementation and control roles. In countries like Argentina and Colombia, the national environmental institutions - National Secretary and Ministry respectively - have been subsumed or merged with other institutions, health in Argentina and housing in Colombia, in response to economic crisis and revision of national priorities in which the environment has lost the prominence that it had acquired less than a decade earlier.

Another outcome of the appearance of biodiversity, both as a concept and as a political agenda, is that it created a wide umbrella under which most conservation issues were placed. Usually, the wildlife departments or equivalent, which dealt with management and conservation of terrestrial animal species (plants generally being addressed by forestry departments) were the units that went through radical changes to reflect the predominance of the biodiversity concept. "Wildlife departments" turned into "biodiversity departments", accompanied not only by the creation of technical and policy units to deal with the genetic

resources issue – a predominant concern of the CBD - but also the reduction in the overall importance of “wildlife” as one of the predominant issues within the administration. By contrast, the emphasis on protected areas, fisheries, “brown” issues such as pollution, and forestry increased. As a result of being subsumed within the biodiversity umbrella, the financial investment and allocation of personnel to wildlife and wildlife trade issues stalled, if not declined.

CITES implementation has traditionally been a role of the wildlife departments, reflecting the predominance of animal species within the Convention’s focus. Most of the CITES Management Authorities in Latin America correspond with the government agencies that deal with fauna conservation and management as their main task. This means that the processes described above, in which wildlife has been subsumed within biodiversity in the national administrations, has also affected the relative importance given to CITES. Before the CBD existed, CITES was the most important international instrument for wildlife conservation within Latin American countries. Once countries started ratifying the CBD, however, interest in CITES diminished, among other reasons because of its narrow scope compared to the CBD, and because the CBD was created with its own funding mechanism – the GEF- a fact that significantly improved the political support and interest governments displaced towards the newer Convention.

Once it has been accepted that the issues covered by CITES are indeed a subset of the ample CBD mandate, the challenge for both Conventions is to align their respective agendas in order to mutually improve their performance through co-operation: CITES can offer the CBD its expertise in international wildlife trade, experience that includes years of lessons learned in species management and the relationship of such management with wider ecosystems. In turn, the CBD can offer CITES guidance mechanisms to secure the sustainable use of wildlife resources, e.g. through applying the recently agreed guidelines, and application of the ecosystem approach.

### **3.9.7 Conclusions and recommendations**

The international trade in wild animal species has been recognised for decades as a major conservation threat and was the driving force behind the establishment of CITES. However, the international trade is only one element of the very much larger use of wild species, and poses opportunities as well as threats. It was these wider issues that the CBD was developed to address.

As both CITES and the CBD are specifically concerned with the use of wild species, it comes as no surprise that there are so many areas of potential linkage in the implementation of the two Conventions. What is a surprise, however, is how little has been done to date to operationalise such linkages. As explained by JENKINS (2004), this reflects in part the different operational structures of the two Conventions, and in part the relatively low priority that national implementing agencies, committees and the Secretariats give to securing effective co-operation in the face of a large number of competing demands and limited resources.

Rather than serving as a barrier to enhanced synergy, such competing demands and resource limitations should be viewed as a reason for enhanced synergy. Neither CITES nor the CBD can afford to continue to operate in relative isolation. Instead, opportunities for “joined up thinking”, and further, “joined up action”, must be identified and pursued. Some of the areas within which such “joined up” approaches might be realised have been highlighted above. The following are some additional suggestions for promoting

more effective co-operation, and therefore more effective implementation, of the two Conventions with regard to the trade in animal species.

- Promote more effective cross-planning and communication among the decision-making processes of the two Conventions, e.g. through:
- Attendance at CITES COPs, Animals and Standing Committee meetings by CBD Secretariat staff and SBSTTA representatives;
- Attendance at CBD COPs, SBSTTA meetings and CBD working group meetings by the CITES Secretariat and Animals and Standing Committee representatives;
- Provision within the work plans of the Secretariats and Committees for development of joint activities on key issues;
- Provision within the budgets of the Secretariats and Committees for such joint activities to be realised; and
- Use of CBD processes to identify additional species that merit inclusion in the CITES Appendices.
- Promote more effective cross-planning and communication among national level policy and implementing agencies, e.g. through:
- Ensuring that CITES Management and Scientific Authorities are involved in the development of national biodiversity action plans;
- Applying the experience gained through managing harvest and trade of CITES-listed species to the trade in non-CITES species; and
- Encouraging greater use of CITES data in designing sustainable use and benefit sharing programmes in relation to the wildlife trade.
- Improve the availability of tools and information to Convention implementing agencies, e.g. through:
- Providing training to CITES Management and Scientific Authority staff with regard to application of the ecosystem approach and the Principles and Guidelines for Sustainable Use of Biodiversity;
- Providing training to CBD national focal points on the use of CITES trade data; and
- Co-development of mechanisms to identify the best mix of regulatory and incentive-based approaches to bring harvest and trade of wild species within sustainable levels, and to ensure that such trade contributes to achieving development objectives.

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### 3.10 The Global Strategy for Plant Conservation - An Example of Increasing CITES-CBD Synergy, SARA OLDFIELD

#### 3.10.1 Introduction

The aims of the Convention on Biological Diversity (CBD) and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) share essential similarities but the mechanisms for delivery differ considerably. One potential mechanism for synergy is provided by the CBD Global Strategy for Plant Conservation (GSPC), agreed by the Parties to the CBD in April 2002, which sets out specific targets for the conservation and sustainable use of plant biodiversity. The Strategy provides a framework for policy formulation and a basis for monitoring progress in achieving plant conservation and sustainable use objectives. It is also successfully helping to highlight the priorities for plant conservation - an aspect of biodiversity conservation that has generally received less attention and resources than the conservation of fauna.

#### **Box 1: Complementary aims of the Conventions - Conservation and sustainable use**

The Convention on Biological Diversity (CBD) aims to conserve biodiversity, ensure the sustainable use of biodiversity and ensure the fair and equitable sharing of benefits arising from the use of genetic resources. The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) aims to protect listed species against over-exploitation caused by international trade and to ensure that this trade is sustainable.

The GSPC contains 16 ambitious targets to be achieved by the Year 2010 (see Annex 2). The targets relate to five objectives:

- a) Understanding and documenting plant diversity
- b) Conserving plant diversity
- c) Using plant diversity sustainably
- d) Promoting education and awareness about plant diversity
- e) Building capacity for the conservation of plant diversity

At an international level a lead agency has been identified to facilitate progress towards each target. An initial step has been to undertake a series of stakeholder consultations to help clarify the scope of activities, develop sub-targets or milestones, develop baseline data and indicators of progress, for each target. A Global Partnership for Plant Conservation is being established to support the worldwide implementation of the Strategy. The Partnership is an informal consortium of international and national organisations including those who are associated with particular targets.

The identification of priority actions needed or development of national targets for delivery of the Strategy is underway in a range of countries. In the UK for example, ongoing actions, high priority additional work, medium priority additional work and lower priority additional work have been identified through a consultation process and progress reports will be given every two years (ANON, 2004).



The delivery of most of the 16 targets of the GSPC is supported at least in a minor way by ongoing activities of CITES and one Target is directly linked to CITES. This target, Target 11 of GSPC states: *No species of wild flora endangered by international trade*. It is clearly consistent with the main purpose of the CITES Strategic Plan: “To ensure that no species of wild fauna or flora becomes or remains subject to unsustainable exploitation because of international trade”.

In taking forward the GSPC, it has been recommended that CITES act as the lead coordinating agency for the promotion and implementation of Target 11 at a global level. The CITES Plants Committee was requested to coordinate the stakeholder consultation for Target 11. This process was initiated at the Thirteenth Meeting of the Plants Committee held in Geneva in August 2003. A Working Group consisting of representatives from Austria, Australia, Mexico, FFI, IUCN and UNEP-WCMC was established to take the discussions on GSPC forward. A stakeholder consultation exercise has been undertaken during January to March of 2004 by FFI on behalf of the CITES Plants Committee.

The discussion document prepared for the stakeholder consultation, built on the background and baseline information for Target 11 (CBD, 2002) recognised by a meeting of Technical Experts held in Gran Canaria in February 2002, prior to the adoption of GSPC. Annex 1 of this paper notes the CITES implementing mechanisms already in place which were recognised as being useful by the Technical Experts to help meet Target 11. It also notes the activities which were considered to need strengthening by the Gran Canaria meeting.

FFI circulated the discussion paper to over 40 organisations and expert individuals. The paper was also circulated to members of the IUCN Plant Conservation Committee, to the Chairs and officers of the SSC Plant Specialist Groups, members of the CITES Plants Committee and the Planta Europa network. The Royal Horticultural Society, UK circulated the document to trading contacts, nurserymen and amateur plant specialists. Information was sought from participants in the consultation exercise on which plant species are being negatively impacted (currently Endangered or may become so) by trade; current activities which will help to deliver Target 11 in addition to those undertaken by CITES; priorities for further research and action and possible sources of funding. Findings of the Consultation exercise are incorporated into the following Sections of this paper.

Closely related targets of the GSPC linked to Target 11 and which are of major interest to both CBD and CITES are:

- Target 12: *30 per cent of plant-based products derived from sources that are sustainably managed*
- Target 13: *The decline of plant resources, and associated indigenous and local knowledge, innovations and practices that support sustainable livelihoods, local food security and health care, halted.*

The lead institutions for global implementation of these targets are FAO and IPGRI for Target 12 and FAO, IPGRI and People and Plants International for Target 13.

### 3.10.2 Implementation of Target 11

#### Clarification and scope of activities

In order to implement Target 11 of the GSPC there needs to be an understanding of which plant species are currently endangered by international trade so that appropriate conservation action can be taken - primarily at the national level. It may also be appropriate to look at plant species that are likely to become endangered over the next few years as a result of international trade unless appropriate action is taken.

“Endangered” in the context of Target 11 could be taken to refer to the precise definition used by IUCN or it may refer more broadly to species which are threatened with extinction. It is the view of the IUCN Plant Conservation Committee that the GSPC Target should refer to all globally threatened species (MAUNDER *in litt*, 2004; STRAHM *in litt*, 2004). This considerably broadens the scope of Target 11. The IUCN definitions of globally threatened species state that a taxon is Critically Endangered, Endangered or Vulnerable when the best available evidence indicates that it meets one of five criteria relating to population size, population decline, geographic range or the results of quantitative analysis and is therefore considered to be facing a high risk of extinction in the wild (IUCN, 2001). The criterion which relates most nearly to threatened by trade is A1(c) which refers to a specified rate of reduction in population size based on actual or potential levels of exploitation. Exploitation is however clearly broader than exploitation for trade, whether national or international, alone. Assessment of the degree to which international trade is actually a threat to globally threatened species is not a straightforward process.

Information required as part of the Red Listing process includes the major threats faced by the species. The standard list of threats produced by IUCN for Red Listing includes harvesting for food, medicine, fuel, materials and cultural/scientific/leisure activities. Each category is subdivided into local, national and international trade. The IUCN Red Listing process should therefore compile important baseline information for implementation of Target 11. Relatively few plant species have, however, been evaluated using the current IUCN Red List Categories and Criteria and so, at present, there is no comprehensive and up-to-date list of globally threatened plants. There is also little currently compiled information on threatened plant species which are specifically threatened by trade. The CITES Trade Database maintained by UNEP-WCMC can be used to provide a list of CITES-listed threatened plant species that are in trade but trade may not be the main threat to them. A preliminary attempt was made to draw up a list of threatened tree species, threatened at least in part by exploitation and which are recorded in international trade (WCMC, 1998). This amounted to around 1000 species. No similar analyses are known for other groups of plants.

Species recognised as threatened with extinction, as a result of trade, through the Target 11 Stakeholder consultation refer mainly to plants already included in the CITES Appendices. As pointed out by Carolina Caceres, *in litt*. 2004, “Generally, plant species which are susceptible to being endangered by trade are those that are wild harvested without a sustainable harvesting program in place. In our experience, this can include medicinal plants (such as ginseng and goldenseal), some non-timber forest products, and species prized by hobbyists (orchids, carnivorous plants, cacti). Bulb harvesting in the Mediterranean and similar regions around the world remains a general issue of concern, as the bulb is a convenient commodity for trade (THORNTON-WOOD, *in litt*. 2004). An ATIBT representative commented that although no commercial tree species can be seen to be in immediate danger from international trade, the major prob-

lem of illegal logging could if not brought under strict control greatly endanger timber species in the not to distant future, as could the continual “creaming” off of certain highly sought after species in remote tropical regions (STEVEN SPEED, *in litt.* 2004).

Within the context of CITES, species threatened with extinction which are or may be affected by trade are included in Appendix I of the Convention and can only be exported under exceptional circumstances.

Under the CITES listing criteria as recently revised a species "is or may be affected by trade" if:

- *it is known to be in trade, and that trade has or may have a detrimental impact on the status of the species; or*
- *it is suspected to be in trade, or there is potential international demand for the species, that may be detrimental to its survival in the wild.*

Article II of CITES states that for Appendix I species “trade in specimens of these species must be subject to particularly strict regulation in order not to endanger further their survival and must only be authorized in exceptional circumstances”.

Appendix II of CITES includes species which although not necessarily now threatened with extinction may become so unless trade in specimens of such species is subject to strict regulation in order to avoid utilisation incompatible with their survival. An export permit is required for Appendix II species subject to a determination that such export will not be detrimental to the survival of the species and that it complies with national legislation.

At present some plant species that have been classified as Endangered according to the IUCN Red List Categories and Criteria or are likely to qualify when evaluations are carried out are included in Appendix I of CITES and some in Appendix II (see example in Box 2). Approximately 200 plant species are included in CITES Appendix I and over 20,000 in Appendix II which includes the entire orchid family. The implementation of provisions relating to both Appendix I and II should help to implement Target 11 of GSPC. Furthermore listing of species on CITES Appendix III is another mechanism which can help implement this target.

**Box 2: Internationally traded Vietnamese orchids threatened with extinction**

Vietnamese orchid species considered to be Endangered in accordance with IUCN Red List categories, based on preliminary evaluations, which are included in Appendix I of CITES include the slipper orchids *Paphiopedilum barbigerum* var. *lockianum*, *P. callosum*, *P. dianthum*, *P. emersonii*, *P. gratixianum*, *P. hangianum*, *P. helenae*, *P. henryanum*, *P. malipoense*, *P. micranthum*, *P. purpuratum*, and *P. tranlienianum*. These species are considered to be approaching the Critically Endangered category and are directly threatened by illegal international trade. Species of other Vietnamese genera such as *Aerides*, *Calanthe*, *Cymbidium*, *Dendrobium*, *Phalaenopsis* and *Vanda*, which are also directly threatened by collecting for international trade, are included in Appendix II (AVERYANOV ET AL, 2003).

By no means all Endangered plant species, which are threatened at least in part by levels of international trade are currently included in the Appendices of CITES. For some Endangered species, even where these are traded internationally, CITES may not be considered the most appropriate conservation mechanism,

for example, by the range states. National measures may be considered more appropriate. This has been the case for example with certain Australian plants listed on CITES in the 1980s and subsequently removed from the Appendices because national legislation was considered more appropriate for the endemic species. Other countries may prefer to develop their capacity for national management of endangered wild plants before committing to CITES regulation. In order for progress to be made towards meeting Target 11 a wide range of conservation measures may need to be considered with significant emphasis on national and local action. The importance of national and local action was stressed by respondents to the Target 11 Stakeholder Consultation. International or national rules regulating international trade may impose externally-developed rights regimes that unwittingly punish the protectors, and shift resource access and control and hence benefits. As pointed out by PATRICIA HOWARD, *in litt* 2004. *Over-exploitation is often perpetrated by non-local rights holders and upholding the claims of local rights holders can serve as an effective means to counter over-exploitation (seen as 'illegal' by local rights holders, but not by national or international authorities).*

### Current activities of CITES

The CITES Strategic Plan aims to improve the working of the Convention so that international trade in wild fauna and flora is increasingly and consistently conducted at sustainable levels (CITES SECRETARIAT, 2001). There are seven broad goals each with a number of objectives and action points. The action points are directed to the CITES Secretariat, the Standing Committee, the Animals and Plants Committees, the Conference of the Parties, the Parties and their Scientific and Management Authorities as appropriate. The objectives and action points apply generally to all species groups covered by the Convention with the exception of Objective 4.6 which is: *To strengthen knowledge, promote awareness and facilitate enforcement of flora issues in CITES.* This objective acknowledges the relatively low priority given to plant species in the implementation of CITES. Action point 4.6.1 directed to the Parties and to the Secretariat states: *Ensure that adequate attention is given to plant conservation in all activities related to the implementation of this plan.*

Current actions of the CITES Action Plan which are directed to the Plants Committee which may assist in the delivery of Target 11 of the GSPC are outlined in Table 1. Certain actions have been accorded high priority by the Committee members. Additional resourcing will need to be found to take forward all the actions and to align specific ones with delivery of Target 11 of the GSPC. The actions set out in the Action Plan are in addition to the general remit of the Plants Committee which is, *to provide advice and guidance to the Conference of the Parties, the other committees, working groups and the Secretariat, on all matters relevant to international trade in plant species included in the Appendices, which may include proposals to amend the Appendices.*

**Table 1: Plants Committee actions specified in the CITES Action Plan**

Action Point	Description	Status and link to GSPC Target 11
<b>Objective 1.7:</b> To improve the coordination between CITES Management and Scientific Authorities and increase the effectiveness of the latter.		
1.7.1	Develop a manual specifying obligations and procedures of Scientific Authorities and training	The Secretariat has a programme of work to assist Scientific Authorities which the Plants Committee may assist with particularly on a regional basis. Strengthening the ability of CITES Scientific Authorities to address botanical issues will increase the likelihood of Target 11 being met. This is particularly the case for example with the making of non-detriment findings required for Appendix II species.
1.7.2	Develop regional directories that list the botanists who are experts in CITES-listed species	This has been undertaken and a mechanism now needs to be found to keep it up to date. The directories provide a useful source of expertise for assistance with GSPC Target 11.
1.7.3	Communicate to the Parties the importance & advisability of including plant experts in Scientific Authorities	Remains important to increase effectiveness.
<b>Objective 2.1:</b> To ensure that the Convention's Appendices correctly reflect the conservation and management needs of species		
2.1.2	Regular review of the Appendices to ensure that listed taxa satisfy the relevant criteria	Currently underway for Appendix I cacti. This activity will help to ensure that CITES activities focus on the appropriate species.
2.1.3	Review of Significant Trade	Considered <b>High Priority</b> by the Plants Committee. This is a central activity in the implementation of CITES which helps to ensure that appropriate measures are taken for species listed in Appendix II. At present reviews are underway for Cycads, <i>Prunus africana</i> , <i>Aquilaria malaccensis</i> , <i>Pericopsis elata</i> , East African <i>Aloe</i> spp. used for extracts and for Madagascan plants as part of a country review.

2.1.4	Evaluate trade and biological information on currently unlisted species subject to significant international trade to determine whether they would qualify for and benefit from CITES listing	Parties have started to look at unlisted taxa such as <i>Harpagophytum</i> spp., <i>Taxus</i> spp. and a range of tree species traded as timbers. It is clearly very important that this process should be encouraged and extended if Parties are also to meet their obligations under Target 11 of the GSPC. This action is currently not accorded high priority because of lack of resources.
<b>Objective 2.2:</b> To ensure that decisions to amend the Convention's Appendices are founded on sound and relevant scientific information and meet agreed biological and trade criteria for such amendments.		
2.2.2	Encourage Parties to consult with the Plants Committee as appropriate	Ongoing
2.2.3	For identified commodities, develop standardized units of measure for permits, trade analysis and reporting	Ongoing
<b>Objective 4.3:</b> To promote greater awareness among and cooperation with the scientific community.		
4.3.2	Participate actively at scientific meetings and conferences, and encourage participation in CITES issues by the scientific community.	Participation provides an opportunity to promote the links between CITES and CBD in plant conservation.

Objectives and Action Points directed at Parties which are particularly important to make CITES listings work effectively for plants, and which will help Parties to meet Target 11 of GSPC are outlined in Table 2. Fundamental to the effective implementation of CITES is the requirement of Article IV paragraph (2) which states that exports of Appendix II specimens should only be permitted when:

- a) *a Scientific Authority of the State of export has advised that such export will not be detrimental to the survival of that species;*
- b) *a Management Authority of the State of export is satisfied that the specimen was not obtained in contravention of the laws of that State for the protection of fauna and flora.*

The Scientific Authority of the exporting country is thus charged with making a non- detriment finding (NDF) for a species listed in Appendix II prior to the granting of a CITES export permit. Authority. The extent to which Scientific Authorities implement this requirement of the Convention is variable. Currently efforts are being made to develop guidance on making NDFs for mahogany and this is an area of collaboration between CITES and ITTO (JOHNSON, *in litt* 2004). In addition to the actions in Table 2, deficiencies in national legislation and enforcement of controls for plant species in relation to CITES need to be addressed.

**Table 2: Selected actions of the CITES Action Plan directed at Parties**

Action Point	Description
<b>Objective 1.8:</b> To encourage Parties to develop and implement effective management programmes for the conservation and recovery of species, so that the species will no longer satisfy the criteria for inclusion in the Appendices.	
1.8.1	Share experiences gained by different countries in conservation, management and the recovery of species.
1.8.2	Promote establishment of effective programmes for species conservation, management and recovery
1.8.4	Develop and incorporate scientific baselines in management plans for traded Appendix II species, designed to ensure that any trade is sustainable
<b>Objective 2.3:</b> to improve the basis on which Scientific Authorities make non-detriment findings	
2.3.2	Facilitate national and regional training for Scientific Authorities

At an international level the implementation of the Significant Trade Review process is a very important means of improving the implementation of CITES and ensuring that listed species are not endangered by international trade. The Plants Committee has a specific mandate to identify Appendix II species that are subject to significant levels of trade in consultation with range States, the CITES Secretariat and experts. Based on review and assessment of relevant biological and trade information, recommendations can be made for action by the range State with time limits for their implementation to ensure compliance with the Convention. The result of the Significant Trade Review process generally removes the need for importing countries to apply stricter domestic measures (such as import bans or externally-imposed export quotas for range states) on a unilateral basis. It should also ensure that Appendix I listing for the species is not considered necessary.

#### Additional activities beyond the currently planned CITES actions

CITES is the only international mechanism specifically charged with regulating trade in wild plants for conservation purposes. As mentioned in Section 2.1 it does not cover all plant species which are endangered by international trade. Other mechanisms are important to ensure that species are not endangered by international trade. Particularly important are sustainable management and harvesting plans within the range states of species to ensure that detrimental levels of off take do not take place. Independent certification of sustainability both of timber and non-timber forest products carried out to internationally recognised standards is one mechanism which should help ensure that no plant species are endangered by international trade. Both the sustainable harvesting and use of forest products and independent certification are promoted as objectives within the CBD Workplan for Forest Biodiversity (see Annex 3). Other measures include the development of locally based propagation schemes for threatened plant species for which there is an international trade demand. The development of such schemes is recommended in the CBD

technical report, *Sustainable Management of non-timber forest resources* (SECRETARIAT OF THE CONVENTION ON BIOLOGICAL DIVERSITY, 2001). According to the RHS, the promotion of commercial propagation in both the countries of origin and destination should be further explored and facilitated. They also note that public education and awareness in consumer countries is important, including the use of cost-effective certification schemes (THORNTON-WOOD, *in litt.* 2004).

The following are suggested activities partially outside the scope of CITES but with links to CITES activities that will help to implement GSPC Target 11:

- Identification of all Endangered plant species which are threatened by international trade. Collation of existing information into a baseline list including both CITES-listed species and species not currently covered by the Convention. This is an important requirement for meeting Target 11 and will require coordination between the Convention and other agencies.
- Research to review the threats to a range of plant species that are traded internationally to assess the relative importance of collection from the wild for trade as a threat to the species in comparison to other threats such as habitat degradation or loss.
- Review of national measures designed to promote sustainable trade in wild plant species at levels which do not threaten the survival of the species. Promotion of successful case studies.
- Review of livelihood issues relating to trade in endangered plant species with case studies selected for CITES and non-CITES species.
- Development of alternative rural income sources to reduce the need for collection of over-exploited wild plant species.
- Regional workshops on policy and practical options for the conservation of the plant species where international trade is a significant threatening factor.

### **3.10.3 Suggested milestones for achieving Target 11**

Target 11 of the GSPC is an ambitious goal. The scope of the work required is somewhat unclear as baseline information is partial and imprecise. Measurable progress is likely to be achieved by a combination of currently planned CITES action; broadening of CITES plant activities as and when additional resources are mobilised, and a range of other measures linked for example to the CBD Thematic Programmes of Work. The milestones suggested here are preliminary ideas incorporating feedback and suggestions from participants in the stakeholder consultation process. Development of a coherent framework for action will require further discussion within the CITES Plants Committee, re-assessment of the CITES Action Plan priorities in the light of GSPC and assessment of the potential of other mechanisms to contribute to Target 11.



### Information collection and review

As discussed in Section 2.1 there is currently limited baseline information on plant species threatened by international trade. A priority is to compile what information there is and collect new information, for example, through the IUCN/SSC Red List Programme which links to GSPC Target 2.

- National lists of wild plant species harvested for international trade by 2005.
- Conservation assessments, linked to Target 2 of the GSPC, for all major groups of internationally traded plant taxa by 2007.
- Global list of threatened plants in international trade available on the Web and in published form by 2008.

### CITES activities

- Collection of information on currently unlisted plant species which may be appropriate for CITES listing through CITES networks in liaison with the IUCN/SSC Red List Programme, the TRAFFIC Network, trade associations, horticultural societies and other appropriate agencies.
- Regular review of priorities for Significant Trade process for plants
- Guidelines for making non-detriment findings for plant species based on case studies developed by 2006
- Collaborative Regional training/mentoring programmes organised by the Parties in place for making non-detriment findings, by COP14.
- National CITES authorities to ensure that CBD National Biodiversity Action Plans adequately address policy and resource priorities for ensuring that no plants endangered by international trade.- report at COP14.
- Strategy for achieving a measurable decrease in illegal international trade in Endangered wild orchids by 2006 with priority importing and exporting countries identified
- Strategies in place by 2005 for the downlisting of a range of Appendix I plants by 2010 based on recovery and management plans, taking into account Target 8 of the GSPC.

### Other activities

- Overview of other appropriate mechanisms which will help meet Target 11, including CBD Thematic Programmes of Work by September 2004
- Collaboration between CITES, WHO, FAO, CBD NTFP consultation group and other appropriate groups to develop and promote sustainable management systems for plants in international trade for example through promoting awareness of the WHO Good Agricultural and Collecting Practice guidelines for medicinal plants.

- Joint CBD/CITES publication on measures to promote sustainable trade in wild plant species at levels which do not threaten the survival of the species or the livelihoods of local people with case studies relating to CITES and non CITES species by 2006.
- Regional workshops on policy and practical options for the sustainable management of tree species in international trade by 2005.
- Regional workshops on policy and practical options for the sustainable management of medicinal plant species in international trade by 2005.

### 3.10.4 CITES and CBD synergy

Unsustainable levels of harvesting from the wild for international trade is a significant threat to a wide variety of plant species. CITES specifically sets out to tackle this threat through international cooperation and regulation. The task is not easy given the complexity of the trade of wild plants and their products in terms, for example, of scale, variety, trade patterns and routes, level of conservation resources and different approaches to conservation in various parts of the world. Linking CITES to the CBD through the GSPC should help to place the CITES regulatory approach in the broader context of biodiversity conservation and sustainable use provided by CBD. Of particular value will be to consider how issues of rural livelihoods and economic incentives for conservation, which have been more fully considered in the CBD arena, can be applied to plant conservation and sustainable use through CITES. Equally the in-country scientific and technical expertise used to manage the sustainable trade in wild plants in accordance with CITES, and the international networks in place to support the Convention will be invaluable in supporting the implementation of the CBD GSPC.

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## **Annex 1: Technical review of Target 11 and analysis of opportunities for implementation – Technical experts meeting Gran Canaria 2002**

### Background and baseline

At national level 157 CITES Parties are working in a co-ordinated way with tools for implementation under the umbrella of the CITES. The systems and data for monitoring of the international trade are centralised in WCMC-UNEP and the activities from international NGOs such as TRAFFIC-network, IUCN, WWF and other relevant networks on this specific issues constitutes the background and baseline for this target.

### Rationale and conclusions

To achieve the target “No species of wild flora endangered by international trade” it was considered necessary by the Technical Experts meeting to:

#### *Enhance the ability of each Party:*

To assist in the development of appropriate domestic legislation and policies that encourage the adoption and implementation of social and economic incentives allied to legal instruments that:

- promote and regulate sustainable management of wild flora
- promote and regulate responsible trade in wild flora

To strengthen the administrative, management and scientific capacity of Parties by improving the co-ordination with other national agencies responsible for wild plants.

To encourage organizations capable of supporting the Parties in building national information management capacities through training and other activities, and to facilitate improved access to and management of databases.

To encourage Parties to develop and implement effective management programmes for the conservation and recovery of species, so that the species will no longer satisfy the criteria for inclusion in the CITES Appendices.

To use fully the potential of regional co-ordination and collaboration in capacity-building efforts.

#### *Strengthen the scientific basis of the decision-making processes:*

To improve the scientific basis on which the Parties make non-detriment findings.

Contribute to the reduction and ultimate elimination of illegal trade in wild flora

The illegal trade in wild plants is a major factor in the depletion of the world's natural resources in exchange for commercial gain. It undermines the conservation efforts of developing countries, affects the income of rural populations and has driven several species to the brink of extinction.

All countries, whether they are consumers or producers of wild plants, share responsibility to reduce and eventually eliminate illegal trade in wildlife. Successful achievement of this responsibility entails co-ordination and co-operation at all levels – local, national, regional and global. Heightened local awareness of and involvement in wildlife protection activities can further national efforts in combating illegal trade. Also, heightened awareness of and understanding by the judiciary of their potential role in deterring illegal activities relating to wild flora would further strengthen a Party's effort to stem illegal trade.

To promote a high degree of co-operation, co-ordination and collaboration between national and international law enforcement agencies.

To stimulate and participate in bilateral, regional and global efforts to combat illegal trade in wild flora.

To develop appropriate management strategies and incentives for promoting a change from illegal to legal use of wild flora, for example: certification systems for timbers.

To strengthen communication and collaboration with national and international NGOs.

To strengthen alliances with relevant local communities, consumer groups and traders.

To promote awareness and a greater understanding by the judiciary of the social and economic significance of conservation threats posed by illegal trade in wild flora.

To promote greater awareness among and co-operation with the scientific community.

To produce and disseminate informative materials to a broad public at a local, national and regional levels.

## Annex 2: GSPC targets to which the work of CITES contributes

<b>(A) Understanding and documenting plant diversity</b>		
(1) A widely accessible working list of known plant species, as a step towards a complete world flora.	Yes	Work of the Nomenclature Committee, Periodic review of the Appendices and significant trade process. CITES Checklists produced for various groups of plants including orchids, cacti, other succulents and bulb genera.
(2) A preliminary assessment of the conservation status of all known plant species, at national, regional and international levels.	Yes	The work of Scientific Authorities, the Plants Committee, the Significant Trade process all contribute to this.
(3) Development of models with protocols for plant conservation and sustainable use, based on research and practical experience.	Yes	Article 4 and best practice examples e.g. <i>Guaiacum</i> . Setting quotas and non-detriment findings.
<b>(B) Conserving plant diversity</b>		
(4) At least 10 per cent of each of the world's ecological regions effectively conserved.	No	
(5) Protection of 50 per cent of the most important areas for plant diversity assured.	No	
(6) At least 30 per cent of production lands managed consistent with the conservation of plant diversity.	No	
(7) 60 per cent of the world's threatened species conserved <i>in situ</i> .	Yes	Identifying App 1 species helps in establishing protected areas. Second, when there is sustainable use <i>in situ</i> studies (e.g. <i>Harpagophytum</i> ) it provides an incentive for <i>in situ</i> conservation.
(8) 60 per cent of threatened plant species in accessible <i>ex situ</i> collections, preferably in the country of origin, and 10 per cent of them included in recovery and restoration programmes.	Yes	Listing has created higher motivation for conservation work as opposed to simple collecting. Because they are listed, seeds of cacti in Mexico are cultivated <i>in situ</i> instead of flowing out of country.
(9) 70 per cent of the genetic diversity of crops and other major socio-economically valuable plant species conserved, and associated indigenous and local knowledge maintained.	No	

(10) Management plans in place for at least 100 major alien species that threaten plants, plant communities and associated habitats and ecosystems.	No	
<b>(C) Using plant diversity sustainably</b>		
(11) No species of wild flora endangered by international trade.	Yes	Everything CITES does contributes to this target.
(12) 30 per cent of plant-based products derived from sources that are sustainably managed.	Yes	Annotations to species listed in the Appendices bring products into consideration.
(13) The decline of plant resources, and associated indigenous and local knowledge, innovations and practices that support sustainable livelihoods, local food security and health care, halted.	Yes	Non-detriment findings contribute at a minor level.
<b>(D) Promoting education and awareness about plant diversity</b>		
(14) The importance of plant diversity and the need for its conservation incorporated into communication, educational and public –awareness programmes.	Yes	
<b>(E) Building capacity for the conservation of plant diversity</b>		
(15) The number of trained people working with appropriate facilities in plant conservation increased, according to national needs, to achieve the targets of this Strategy.	Yes	Training courses, slide packs, CD-ROM, training officer.
(16) Networks for plant conservation activities established or strengthened at national, regional and international levels.	Yes	CITES is a network. Regional directories are an expression of the network.

Prepared by the CBD working group at the 13th Meeting of the CITES Plants Committee, May 2003

**Annex 3: Objectives and activities of the CBD Workplan for Forest Biodiversity that support Target 11 of the GSPC and link to the objectives of CITES**

Objective	Activities
Promote forest management practices that further the conservation of endemic and threatened species	Determine status & conservation needs of endemic or threatened species & the impacts of current forest management practices on them
	Develop & implement conservation strategies for endemic & threatened species for global or regional application, & practical systems of adaptive management at national level
Promote sustainable use of forest resources to enhance the conservation of forest biological diversity	Develop, support & promote programmes & initiatives that address the sustainable use of timber & NTFPs
	Support regional cooperation & work on sustainable use of timber & NTFPs and services, including through technology transfer & capacity-building
	Improve forest management & planning practices that incorporate socio-economic & cultural values to support & facilitate sustainable use.
	Promote cooperative work on the sustainable use of forest products & services & its relation to biodiversity conservation with the other members of the Collaborative Partnership on Forests.
	Encourage implementation of voluntary third-party credible forest certification schemes that take into consideration relevant forest biodiversity criteria
	Set up demonstration sites that would illustrate forest conservation & on-ground delivery of goods & services through sustainable forest management
	Facilitate & support a responsible private sector committed to sustainable harvesting practices & compliance with domestic laws through effective development & enforcement of laws on sustainable harvesting of timber & NTFPs.
Prevent losses caused by unsustainable harvesting of timber & NTFPs	Establish a liaison group with an associated workshop to facilitate development of a joint work plan with relevant members of the Collaborative Partnership on Forests to bring harvesting of NTFPs, with a particular focus on bush meat, to sustainable levels.
	Develop any necessary legislation for the sustainable management & harvesting of NTFPs.



Objective	Activities
	Encourage & assist importing countries to prevent the entry of unsustainably harvested forest resources which are not covered by CITES
Enable indigenous & local communities to develop & implement adaptive community-management systems to conserve & sustainably use forest biodiversity.	Strengthen the capacity of, & provide incentives for, indigenous & local communities to generate opportunities for sustainable use of forest biodiversity & for access to markets
	Encourage the conservation & sustainable use of forest biodiversity by indigenous & local communities through their development of adaptive management practices, using as appropriate traditional forest-related knowledge
Promote forest law enforcement & address related trade activities	Invite Parties, Governments & relevant organizations to provide information on a voluntary basis to enable a better comprehension of the effects of unsustainable harvesting, exploitation of other forest resources & associated trade, as well as on the underlying causes, on forest biodiversity. On this basis countries may decide to take relevant measures such as enforcement actions.
	Evaluate & reform, as required, legislation to include clear definition of illegal activities & to establish effective deterrents.
	Develop methods & build capacity for effective law enforcement.
	Develop codes of conduct for sustainable forest practices in logging companies & the wood-processing sector to improve biodiversity conservation
	Encourage & support the development & implementation of tracking & chain-of-custody systems for forest products so as to ensure that these products are legally harvested.
	Invite Governments & relevant organizations to develop & forward to the Secretariat case-studies & research on the impacts of unsustainable timber & non-timber harvesting & related trade.
Mitigate the economic failures and distortions that lead to decisions that result in loss of forest biological diversity.	Elaborate & implement economic incentives promoting forest biodiversity conservation & sustainable use.
	Eliminate or reform perverse incentives, in particular subsidies that result in favouring unsustainable use or loss of forest biodiversity.

Objective	Activities
	Provide market & other incentives for the use of sustainable practices, develop alternative sustainable income generation programmes & facilitate self-sufficiency programmes of indigenous & local communities.
	Develop & disseminate analyses of the compatibility of current & predicted production & consumption patterns with respect to the limits of forest ecosystem functions & production.
	Seek to promote national laws & policies & international trade regulations are compatible with conservation & sustainable use of forest biological diversity. Increase knowledge on monetary
Increase public support and understanding of the value of forest biological diversity and its goods and services	Increase broad-based awareness of the value of forest biological diversity through public awareness campaigns
	Promote consumer awareness about sustainably produced forest products
	Develop awareness of the impact of production & consumption patterns on loss of forest biodiversity
Advance the development & implementation of international, regional & national criteria & indicators based on key measures within the framework of sustainable forest management	



### 3.11 Promoting CITES-CBD Synergy and Co-operation: CITES Non-Detriment Findings and CBD Sustainable Use Principles, ALISON ROSSER

A century of the conservation movement has seen 11.5 % of the earth's surface area brought into protected areas (CHAPE ET AL 2003), yet the rate of species and habitat loss is still of major concern (ADAMS 2004). Current rates of extinction are exceptionally high and habitat destruction is the major threat at present (IUCN 2004). Half of the world's natural habitats have now been cleared and one third of what is left could disappear during the next generation (JENKINS ET AL 2003; BALMFORD ET AL 2003). In future, climate change is also expected to have large impacts on species loss (THOMAS ET AL 2004). Furthermore, the quality of life for the majority of the world's population has been in decline for some time as the environment and the ecosystem goods and services that it provides continue to be degraded. Humans were already using 120% of the Earth's long-term productive capacity by 1999, and the richest 20% of nations accounted for 86% of material consumption (LOH 2002). In response, in 2000 world political leaders adopted the Millennium Development Goals (MDG) to be achieved by 2015. These goals focussed on alleviating poverty and enhancing environmental sustainability. In 2002 the World Summit on Sustainable Development reaffirmed the MDGs and water, energy, health, agriculture and biodiversity (WEHAB) were proposed as an organisational framework for action.

So how do two major multilateral agreements, the Convention on Biological Diversity (CBD) and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) fit into this scenario? The approaches of CDB and CITES although overlapping in their aim of ensuring that use of certain living natural resources is sustainable, are also quite distinct from one another. Thus each Convention has its own particular strengths and weakness, but there is great potential for the two conventions to work together to enhance their effectiveness. To investigate how CITES and CBD might co-operate more in ensuring that use of living natural resources is sustainable, this paper compares the remit of the two conventions. The paper first examines what each convention means by sustainable use and what guidance each provides to its Parties to assist them in achieving this aim. The paper then looks at the work programmes and areas of focus adopted by the Parties in relation to promoting use that is sustainable.

#### 3.11.1 CBD, CITES - Remit of the Conventions

The objective of the CBD, as indicated in Article 1 of the Convention is the *Conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of benefits arising out of the utilisation of genetic resources*. Biological diversity, according to the CBD, means the variability among living organisms from all sources including *inter alia* terrestrial, marine, and other aquatic ecosystems and the ecological complexes of which they are a part; this includes diversity within species, between species and of ecosystems. Thus the remit of the CBD is extremely broad and aspirational.

The purpose of CITES as indicated in its Strategic Plan, adopted at COP11, is to ensure that no species of wild fauna or flora becomes or remains subject to unsustainable exploitation because of international trade. Although CITES focusses on species affected by international trade listed in the three appendices to the Convention, it also considers the role of species in the ecosystem and may on occasion deal with non-listed species.

### 3.11.2 Goals

Parties to the CBD in 2002 adopted a target of reducing the current rate of biodiversity loss by 2010. This target is ambitious and somewhat ambiguous. The current rate of loss biodiversity is unknown and means for measuring success are still under discussion, but will hopefully be finalised soon so that Parties can move ahead to meet the target. Nevertheless it is vital that Parties adopt actions that can produce measurable results.

The CITES purpose *of ensuring that no species of wild fauna or flora becomes or remains subject to unsustainable exploitation because of international trade*, nests within the CBD 2010 goal and the MDG 2015 goal of environmental sustainability. The CITES Action Plan contains a number of measurable goals and objectives through 2005.

### 3.11.3 Approach of the Conventions

Established over 25 years ago, CITES regulates international trade in wild taxa listed in the appendices to the Convention (see WIJNSTEKERS 2003). However, such trade can only be sustainable if harvest at the national level is sustainable, so some oversight of national harvest levels as they contribute to international trade is necessary (LEADER-WILLIAMS 2002). In the case of Appendix-I listed species where trade is only sanctioned under exceptional circumstances, CITES has little ability to affect national management decisions or lack of management, unless trade is involved. For Appendix II-listed species, intervention in national management as it affects international trade can be more extensive. For species in international trade, CITES adopts a largely command and control approach to achieving its aim. A two thirds majority of Parties voting is required to adopt amendments to the Appendices and Resolutions; and the Standing Committee has the possibility of encouraging Parties to refuse imports in response to individual cases of non-compliance. Whilst the Convention is implemented at the national level, international co-operation is organised through meetings of the Conference of Parties, overseen by the Standing Committee and facilitated by the Secretariat. Through mechanisms such as the Review of Significant Trade, the CITES permanent committees have considerable external influence over national decision-making when it affects the sustainability of trade in CITES-listed species. However the Parties also occasionally examine trade in non-CITES-listed species to see if they merit inclusion in the Appendices (e.g. Asian Freshwater turtles and sea cucumbers), or whether there are alternative management mechanisms to address their over-exploitation (e.g. swiftlets of the Genus *Collocalia*). Unlike the CBD and other recently negotiated conventions, CITES has no financial mechanism to assist Parties in implementing aspects of the Convention.

The Convention on Biodiversity has a much broader remit than CITES, dealing with the three pillars of: conservation, sustainable development and equitable sharing of benefits from use of natural resources. The CBD deals with all biodiversity and hence agricultural biodiversity also falls within its remit. As a framework agreement, the CBD entrusts individual Parties with determining how to implement most of its provisions and does not have precise obligations, although further protocols can be negotiated. All decisions are currently adopted by consensus and to date the majority of decisions have dealt with establishing national frameworks. So, the first ten years of operation of the Convention have provided an opportunity to collect and analyse data on the existing state of biodiversity, develop indicators which will

assist in measuring progress in future; and plan what action might be taken in future. As the Parties report on progress before Meetings of the Conference of the Parties (COP) this should, in future, provide a means of measuring progress towards the goals of the Convention. Importantly, the Convention does have a financial mechanism, the Global Environment Facility which through the implementing agencies assists developing country Parties to meet the aims of the Convention.

<b>BOX 1: Summary comparison of CITES and CBD characteristics and areas for synergy</b>		
	<b>CITES</b>	<b>CBD</b>
<b>Indicators to measure success</b>	Could consider using: Downlisting/Maintenance in App II/ eco-labelling  Reviews of Resolution implementation for individual taxa.	Being refined.
<b>International Oversight</b>	Animals/ Plants committee - Sig Trade review of App. II exports.  Appendix I Trophy quotas overseen by COP;  Annual and Biennial reporting.	Biennial reporting – could provide basis for international oversight and encouragement to meet goals.
<b>Ecosystem considerations</b>	Yes required - but overlooked?	Yes explained - but in action?
<b>Socio-economics</b>	Benefits of Trade - Res Conf 8.3  Framework in place, but not recognised fully by all players.	Benefit sharing
<b>Monitoring</b>	Of Trade – yes; Of Populations – needs improvement; innovative examples - MIKE & ETIS.	Inventories under development – ongoing national monitoring yet to be fully implemented.
<b>Cross-Sectoral Co-operation- Wildlife, Forests, Fisheries, Environment, Economics, Agriculture etc.</b>	Needed	Needed

### 3.11.4 Definitions of sustainable use

The concept of sustainable use is a cornerstone of both Conventions (see Box 2). According to the CBD definition, sustainable use means the use of components of biological diversity in a way and at a rate that does not lead to the long-term decline of biological diversity, thereby maintaining the potential to meet the needs and aspirations of present and future generations (See Convention text). It is up to individual

Parties to ensure adherence to this concept. As a framework convention there is no mechanism for enforcing compliance.

CITES does not have a definition of sustainable use per se but Article IV paragraph 2 requires that any export of Appendix II specimens must be deemed to be non-detrimental to the survival of the species. Article IV Paragraph 3 also anticipates the ecosystem approach of the CBD by requiring that exports must be monitored so as to ensure the role of the species in the ecosystem (See Convention text). In actuality, CITES management has probably focussed on ensuring that exports are non-detrimental to the survival of the species, without paying so much attention to maintenance of the species' role in the ecosystem. Nonetheless the provision for ecosystem management is clearly captured in Article IV. The responsibility for making non-detriment findings falls to the national Scientific Authorities designated by each Party. On the basis of this non-detriment finding the Management Authority can then determine whether or not to issue expert permits. Concerns that non-detriment findings were not made properly led to adoption of the Significant Trade Review whereby the Animals and Plants Committees regularly review trade levels and may recommend various management options to individual range States to improve the basis on which non-detriment findings are made (See CITES Resolution Conf. 12.8).

The term sustainable use, although widely used, is often mis-used. Some of the confusion arises from the fact although use can be shown to be unsustainable, it is much harder to prove inconclusively that a particular use is sustainable as we cannot reliably predict the future (ROBINSON AND BENNET 2002). In addition, the term sustainable use is often used to capture two separate concepts (HUTTON AND LEADER-WILLIAMS 2003). On the one hand it can be used to refer to biological sustainability as in the CBD definition. On the other hand, sustainable use is also used to capture the notion of a conservation strategy in which use of natural resources provides incentives to conserve specific resources – this is more accurately referred to as incentive driven conservation. The theory of using resources in a biologically sustainable manner to generate incentives to promote conservation is beguilingly simple and intuitive yet the reality is harder to pin down. It has become increasingly clear that combinations of certain factors increase the likelihood that use of resources will be sustainable and will provide incentives for conservation (IUCN 2000). After many years work by a number of organisations, the CBD Parties have recently adopted the Addis Ababa Principles of Sustainable Use to guide the Parties in promoting use that is likely to be sustainable (CBD Decision VII-12).

**BOX 2: Use and CITES & CBD concepts of sustainability**

**CBD sustainable use** - means the use of components of biological diversity in a way and at a rate that does not lead to the long-term decline of biological diversity, thereby maintaining the potential to meet the needs and aspirations of present and future generations. ( CBD Article 2).

**CITES Non-detriment finding requirements**

- any export of Appendix II specimens must be deemed to be non-detrimental to the survival of the species (Art IV paragraph 2 ); and
- exports must be monitored so as to ensure the role of the species in the ecosystem (Art IV paragraph 3 ).

CITES Parties recognised that commercial trade could be beneficial to conservation and human development (see CITES Resolution Conf. 8.3 On the Benefits of Trade).

**Attributes of use of wild species:**

Use of wild species is not necessarily sustainable and may not always provide incentives for conservation, sustainable use is often shorthand for a project that aims to increase the likelihood that a use will be sustainable and may in turn provide incentives for conservation, if the appropriate benefit sharing infrastructure is in place:

<b>sustainable</b>	<b>or</b>	<b>unsustainable</b>
<b>provides incentives for conservation</b>	<b>or</b>	<b>does not provide incentives for conservation</b>

**3.11.5 Guidance provided to CBD Parties in determining whether use is sustainable**

Firstly, the Parties to the CBD adopted the ecosystem approach and its 12 principles as the primary framework of management action to be taken under the CBD (CBD Decision V 6: Ecosystem Approach). Although ecosystem functioning is not well understood and the levels of species redundancy can only be guessed at (LAWTON, 1999; NAEM ET AL 1994), what is clear is that restoring ecosystems and habitats is an expensive business. The ecosystem approach stresses that an ecosystem can be a functional unit at any spatial scale. The approach is described as an integrated approach to the management of land, water and living resources that promotes conservation and sustainable use in an equitable way. The ecosystem approach can integrate other management and conservation approaches such as biosphere reserves, protected areas, and single-species conservation programmes etc. Humans are recognized to be an integral part of many ecosystems and given our incomplete understanding of ecosystem functioning and the unpredictable nature of ecosystem responses, adaptive management will be a key facet of the ecosystem approach. The specific points of operational guidance for this approach also recommend: that benefit-sharing be enhanced; that management actions are carried out at the appropriate scale, with decentralization to the lowest level; and that inter-sectoral co-operation is ensured. However, the ecosystem approach can give rise to potential conflict with species specific management, because levels of use that are biologically sustainable for a given species, may not always be sustainable in terms of ecosystem function and this will be something for CITES managers to bear in mind.



The Addis Ababa Principles of Sustainable Use provide more specific guidance to assist Parties to achieve the sustainable use of biodiversity within the framework of the ecosystem approach (CBD Decision VII-12). The Principles include a preamble that lists seven underlying conditions that should be taken into account in government and natural resources planning. The fourteen principles themselves provide a framework for advising governments, indigenous and local communities, resource managers, the private sectors and other stakeholders about how they can ensure that their uses of biodiversity components will not lead to the long-term decline of biological diversity. Each principle is followed by a rationale, a thorough explanation of the meaning of the principle and operational guidelines that provide functional advice on the implementation of the principle. The Sustainable Use Principles are particularly relevant to the making of CITES non-detriment findings and the approaches will be compared below after the Section entitled *Guidance provided to CITES Parties in determining whether use is sustainable*.

### **3.11.6 Guidance provided to CITES Parties in determining whether use is sustainable**

CITES provides relatively little guidance to its Parties in determining whether use is likely to be non-detrimental. Resolution Conf. 10.3 on the Role of Scientific Authorities recommends certain aspects of making a non-detriment finding, but provides little explanation and no discussion of the actual considerations and factors that have to be weighed. Resolution Conf. 8.3 on the Benefits of Trade, indicates that trade can be beneficial to conservation, and arguably this provides some indication to Parties of the importance of the use of incentives and other socio-economic considerations. The reporting requirements (Resolution Conf. 11.17 Rev. COP12) also provide an indication of the need to monitor trade data, but do not link that monitoring of trade data with monitoring trends in harvest and offtake.

After years of focus on capacity building for the enforcement agencies, attention is now being paid to capacity building for the Scientific Authorities. In 2002, taking into account work by the IUCN Sustainable Use Groups, CITES sponsored the development of a non-detriment finding checklist (see ROSSER AND HAYWOOD 2002). The checklist was designed to raise some of the questions that CITES Scientific Authorities might address in examining information to reach conclusions about the likely detrimental impact or not of exports. Although by necessity very general, the Checklist development process has focussed attention on the needs of Scientific Authorities. Now, the Secretariat runs ad hoc capacity building workshops supported by a number of Parties and TRAFFIC. The Secretariat is also developing curricula to increase capacity building through the training of trainers. Beyond this, commitment is required from Parties to provide necessary resources so that trained staff remain in position or undertake training of their replacements. Longer term and regular capacity building is urgently needed on a daily basis, through personnel secondment or other means.

Although the CITES Convention requires that each Party designates a Scientific Authority, not all Parties have done so. Even when a Scientific Authority has been designated, capacity may be limited and staff may not be able to fully discharge all the duties assigned to them. To carry out their duties, the Scientific Authority should have information to allow them to estimate total national harvest levels for all CITES-listed species exported by that country so that they can judge the impact of harvest for international trade on the survival of the wild population. Recognizing that specialist expertise is needed on a broad range of species, many Parties engage museum staff and local experts on Committees that advise the Scientific

Authority on whether or not exports are likely to be detrimental. However, resources to support the work of scientific and management authorities can be hard to find in biodiversity-rich developing country Parties. In fact a number of producer countries lack the funds to carry out monitoring of the effect of harvest on populations whether it be direct population monitoring or monitoring of indirect indices such as harvest rate or capture effort. In some countries, monitoring is prioritised towards the most vulnerable species or the most economically important species or perhaps keystone species in ecosystems. For example, Indonesia requires that traders contribute towards field surveys, but this practice does not appear to be widespread (see PRIJONO 2002). There appears to be an opportunity for more involvement between local universities, NGOs, traders and government staff to develop monitoring initiatives.

For a number of the countries that export significant numbers of CITES listed species, monitoring data are lacking and Scientific Authority advisory committees cannot make reliable determinations. The Parties to CITES have instituted the Significant Trade Review process to help address this issue. In this process the Animals and Plants Committees review the status and trade of Appendix II listed taxa, and if necessary make recommendations to Parties to improve management at the national level. These recommendations often include the need to undertake field assessments. Although the CITES Secretariat does support some CITES field projects, funds and the political will to support management changes can be difficult to generate. In such cases a number of Parties adopt voluntary export moratoria (e.g. Tanzania adopting a zero export quota for Fischer's Lovebird) and where importing Parties believe trade to be unsustainable they may adopt stricter domestic measures (e.g. European Union trade suspensions on various species) (see MORGAN 2003).

**BOX 3: Summary of guidance on sustainable use from the two Conventions:**

<b>CBD</b>	<p>Ecosystem Approach - 12 principles (Decision V-6)</p> <p>Sustainable Use - 14 principles within ecosystem approach (Decision VII-12)</p> <p>Programmes of work - collect and analyse case studies - now more specific.</p> <p>? Are the various principles and guidance being implemented yet?</p>
<b>CITES</b>	<p>Role of Scientific Authorities (Res. Conf. 10.3)</p> <p>Benefits of Trade (Res. Conf. 8.3)</p> <p>National reporting guidelines (Res. Conf. 11.17 Rev. COP 12)</p> <p>Requirements for forms of: Artificial propagation (Res. Conf. 9.19 &amp; 11.11), captive breeding (Res. Conf. 12.10), and ranching (Res. Conf. 11.16 ),</p> <p>Capacity building for Scientific Authorities is required to improve implementation</p>

### 3.11.7 Comparison of CITES and CBD approaches and guidance

In essence the CBD approach to sustainable use is similar to the very differently worded non-detriment findings of CITES. However, guidance provided to Parties by the CBD on aspects of sustainable use is much more voluminous and arguably more complex than that provided under CITES. The actions rec-

ommended to CBD Parties are generally much less specific than the more targeted CITES recommendations on making non-detriment findings, but perhaps this is not surprising given the wider mandate of the CBD (see BOX 3).

The CBD Principles of Sustainable Use, and the Principles of the Ecosystem Approach are compared with the topics covered in the CITES non-detriment finding checklist in Box 4. The purpose and scale of application of the Sustainable Use Principles are somewhat different to the CITES non-detriment finding checklist and so the content of the two is not directly comparable. However, it is interesting to note that CITES apparently pays less overt attention to socio-economic aspects of sustainable use. Nevertheless, although CITES was drafted over 25 years ago, CITES does include some references to socio-economic factors: the CITES preamble refers to meeting the needs of future generations, and Resolution Conf. 8.3 recognises the benefits of trade. But at the daily decision-making level, and at recent discussions of the Animals Committee, socio-economic factors do not appear to be major concerns. Indeed, the complex issues of benefit sharing and use of incentives to promote conservation are ones that some CITES Parties appear keen to leave for discussion in the CBD forum.

**BOX 4: Comparison of the Principles of Sustainable Use with aspects covered in the Non-detriment finding checklist**

The individual Principles which are not covered overtly in the non-detriment finding checklist are highlighted in **BOLD** text.

1. Incentives, policies, laws and institutions at all levels of governance.
2. **Users empowered.**
3. **Perverse incentives removed.**
4. Adaptive management adopted.
5. Ecosystem approach adopted.
6. Interdisciplinary research is needed.
7. Scale of management is important.
8. International co-operation is needed.
9. **Interdisciplinary participatory approach adopted.**
10. **True valuation of use undertaken.**
11. Waste & environmental impact minimized and benefits of use optimized.
12. Benefits to those living with biodiversity and alternatives are supplied.
13. Costs of management internalised and reflected in distribution of benefits from use.
14. Public awareness and education implemented and means for effective communication among stakeholders and managers developed.

Enforcement of a CITES regulatory approach is, however, expensive and beyond the means of many biodiversity rich countries. Exceptionally, the importance of incentive driven conservation has been recognized in relation to trade in Appendix I- listed species. Provisions have been made to facilitate trade in Appendix-I listed trophies and commercially captive-bred live animals when it results in a demonstrable benefit to the conservation of the species (see Resolution Conf. 9.21 and 12.10). Special regulations to allow the transfer of species from Appendix I to Appendix II for ranching purposes were also associated with providing an incentive to encourage the conservation of the species. CITES certainly has the potential for greater consideration of socio-economic factors while making non-detriment findings, and CITES work on incentives may examine this issue further.

### **3.11.8 Areas to develop joint activities - Work Programmes**

Potential areas of mutual interest where CITES and CBD could develop further synergy to meet their shared objectives can be divided into activities at the international and national levels driven by taxonomic and regional priorities (see Table 1 and BOX 5).

Starting at the international level, as one of the three pillars of the CBD, sustainable use is a central feature of each of the thematic work programmes (marine and coastal biodiversity, agricultural biodiversity, forest biodiversity, island biodiversity, the biodiversity of inland waters, dry and sub-humid lands and mountain biodiversity). Each of these thematic work programmes has a number of different activities, which involve various aspects related to sustainable use of resources, such as:

- assessments of the state of biodiversity;
- development of indicators;
- incorporation of sustainable use considerations into national biodiversity strategies and action plans; and
- compilation and analysis of case studies to produce examples of best practice.

Many of these activities are compatible with the work of CITES national Scientific Authorities and the compilation of best practice by CBD Parties is compatible with the capacity building programme of the CITES Secretariat

In addition to the thematic work programmes the CBD has also adopted a number of cross cutting issues that are embedded in the thematic programmes. For example, Articles 6-20 biosafety; access to genetic resources; Article 8j - traditional knowledge, innovations and practices; intellectual property rights; indicators; taxonomy; public education and awareness; incentives; and alien species).

The MOU between CITES and CBD encompasses a workplan that already includes a number of joint activities that will be relevant to the making of non-detriment findings and promoting sustainable use, including studies on bushmeat, incentives; use of eco-labelling and development of a Global Plant Conservation Strategy. Other areas of common interest between the two Conventions are outlined in Table 1. Although not apparently mentioned in the joint workplan, the Addis Ababa Principles of Sustainable Use mention a range of follow-up studies, which would be pertinent to and benefit from the experience of CITES Scientific Authorities.

Given the range of guidance and exhortations to action already developed by the two Conventions, the area where developing synergy is most likely to lead to action in the short-term is the capacity building for Scientific Authorities to deal with CITES-listed species and to assess non- CITES listed species and the development of Case Studies of sustainable use as called for in the Addis Ababa Principles. This capacity building could encompass the whole adaptive management cycle from stakeholder consultations to collect basic status information, prioritising species for action, ensuring that management plans incorporating appropriate harvest monitoring and feedback are in place, assessing incentive structures and liaising with enforcement agencies. Once the joint work on incentives and ecolabelling has progressed, this would be an innovative area of focus that could generate gains for conservation.

### **3.11.9 Work Programme - Regional and taxonomic activity**

In terms of regional and taxonomic priorities for activity by both Conventions, the CBD Parties have provisions to assist developing countries and CITES has already identified a group of mega-diverse exporting countries that would benefit from capacity building assistance.

On the taxonomic front, CITES Resolutions often encourage Parties to take action for taxa of special concern. For example, a number of resolutions deal with combatting illegal trade in Appendix I listed species e.g. resolutions on conservation of Asian Big Cats, (including tigers), and conservation of African and Asian rhinos. Similarly, several Appendix II-listed taxa in need of particular attention have also been highlighted through resolutions on the conservation and trade of: Sturgeon, Saiga, Asian Freshwater Turtles and Tortoises, Sharks, Musk deer, and Tibetan Antelope. The conservation and sustainable management of several of these taxa will require regional ecosystem based approaches and some of the actions recommended in the CITES Resolutions fall neatly within the remit of the CBD e.g. action planning, national management for sustainable use and incentive led conservation. Consequently, these priority taxa, would provide a common focus for CITES and CBD to work together to stimulate action at national and international levels to ensure conservation and sustainable management. Support for such cross-cutting projects could be eligible for support through the Global Environment Facility if the national CBD and CITES authorities are able to design joint activities.

### **3.11.10 Joint activity - Membership and joined-up government**

The overlap in membership of the two Conventions is large and theoretically, communication within Parties at the national level should ensure the necessary synergy and obviate the need for a workshop discussing synergy. However, in reality, joined-up government is still a goal to strive for in many countries. Environmental concerns are often divided between departments of Agriculture, Forestry, Fisheries, Water and Wildlife and these sectors may often report to separate Ministries. Traditionally, wildlife departments (which often house CITES Authorities) have been more concerned with conservation whilst the other departments originally came into being to manage extractive commercial use of natural resources under their jurisdiction. With their broad remit, national CBD Focal Points are well placed to bring the concerns of different departments under one unifying Convention and to seek support from the Global Environment Facility.

### 3.11.11 Conclusions

Sustainable Use is central to the aims of both Conventions and there are already a number of initiatives where the two Conventions can develop co-operation. However, to date, attempts to co-operate have not been as successful as they might have been for a variety of reasons. So, in addition to looking for areas of possible co-operation and synergy, it will also be important for the workshop to consider realistic mechanisms to ensure that the hoped for synergy is actually realized.

The recent adoption of the Addis Ababa Principles of Sustainable Use and the emphasis by CITES on making robust non-detriment findings provide a good focus for synergistic activity. Collaborative work on this issue could encompass, capacity building, development of best practice, development of wildlife trade policy, investigation of incentive measures; as well as taxa focussed projects that combine national management and monitoring with international oversight of trade.

#### **BOX 5: Summary of areas of potential action at the nation level**

##### 1. National action - Plans & monitoring

(CBD Article 6a, 6b, 7; CITES Goal 1, 2).

- Incorporate wildlife use & trade in NBAPs - Adopt National Wildlife Use Policy
- Prioritise species for national action & mgmt
  - on basis of e.g. threat or economic contribution to livelihoods
  - Compile information on species harvested for trade, consider:
    - a) Regional management alternatives - e.g. swiftlets - ASEAN; sharks - FAO; sea cucumbers - FAO;
    - b) CITES Listing;
    - c) CITES Periodic Review

##### 2. National action – Sustainable use & incentives

(CBD Article 10; CITES Goal 3; CBD Article 11; CITES Goal 1)

- Use CBD, strategies, inventories, monitoring, information sharing for making non-detriment findings (taking account of Addis Ababa Sustainable Use Principles).
- Contribute CITES case studies to inform CBD.
- Investigate potential incentives from “exceptional” trade in Appendix I-listed species.
- Investigate potential incentive structure of commercial captive breeding of Appendix I and II species.
- Monitor the perverse impacts of trade measure e.g. long-term loss of markets following trade restrictions or stricter domestic measures.

### 3. National action - Research & training

(CBD Article 12; CITES Goal 2):

- Develop national capacity building & research programmes for CITES Scientific Authorities to make non-detriment findings - CBD & GEF support for:
  - Adaptive management;
  - Monitoring;
  - Developing benefit sharing infrastructure;
  - Invasive alien imports - training customs officials by GISP and CITES.

### 4. National action - *In situ*/ *Ex situ* and impact assessment

(CBD Article 8: *In situ* conservation)

- Appendix I – Develop CBD national management for conservation;
- Appendix II – Develop CBD & CITES national management for sustainable harvest.

(CBD Article 9: *Ex situ* conservation).

- Develop impact assessments for establishment of captive breeding facilities for exotic and native CITES-listed species.
- Inform importing states of potential alien invasive species.

### 5. National action - Awareness and exchange of information

(CBD Article 13; CITES Goal 4: CBD Article 17.

- CITES Authorities and CBD to raise awareness of CITES as a mechanism to promote sustainable trade.
- Exchange of information for making CITES non-detriment findings – possibly through CBD Clearing House Mechanism

### 6. Mechanism for Change and synergy

- CITES Resolution Conf. 10.4 Synergy with CITES - revision?
- CITES/ CBD Secretariat MOU and workplan - revision?
- CITES CBD Liaison Group – review TOR?
- CBD technical meetings (SU principles, incentives etc) to be attended by CITES representatives.
- CITES technical meetings (Plants and Animals Committees) to be attended by CBD representatives as necessary.
- CBD National focal points to foster national cross-sectoral integration.

**Table 1: A comparison of selected CBD Articles with the CITES Strategic Vision through 2005 to identify common activities that might assist Parties in meeting their obligations under both Conventions that are pertinent to ensuring use is sustainable.**

**CBD Article 6a and b: General measures for conservation and sustainable use - Parties to develop national strategies, plan or programmes and integrate conservation and sustainable use into cross-sectoral plans programmes and policies.**

**CITES Goal 1: Enhance the ability of each Party to implement the Convention**

- National CITES authorities and CBD focal points to ensure that National Biodiversity Action Plans and Strategies address policy and resource priorities to ensure that species are not overexploited for international trade or domestic use, and establish a mechanism to prioritise species for action.
- National CITES authorities and CBD focal points to liaise with counterparts in Fisheries, Forestry, Agriculture and Health Departments to develop mechanisms for co-operation to ensure that species are not overexploited for international trade or domestic use.

**CBD Article 7: Identification and monitoring – Parties to prioritise components of biological diversity for conservation and sustainable use; monitor components of biological diversity; monitor threats and maintain data.**

**CITES Goal 2: Strengthen the scientific basis of decision-making**

- CBD focal points and national CITES authorities to compile information on species harvested for international trade to identify:
  - Species that merit listing in the CITES Appendices;
  - Species threatened by over-exploitation and that require national or regional management action by regional fisheries or economic co-operation organisations such as ASEAN;
  - Species inappropriately listed in the CITES Appendices (candidates for CITES periodic review process).
- CBD focal points and National CITES authorities to monitor CITES listed species
  - For Appendix I listed species to ensure that populations are not still declining from causes other than international trade; and
  - for Appendix II listed species to ensure that use is not adversely affecting populations.

**CBD Article 8: In situ conservation**

- Examine the potential of protected areas to provide population sources to supply individuals of CITES listed species for harvest in buffer zones.



- National CBD focal points to ensure that protected areas support viable populations of CITES Appendix I listed species.
- Further work on the Addis Ababa Principles to consider guidance on quota setting and monitoring for adaptive management and the relationship between captive and wild production.

**CBD Article 9: *Ex situ* conservation**

- CBD Parties with ex situ breeding operations of CITES listed species to contribute to maintaining *ex situ* facilities for conservation purposes in range States.

**CBD Article 10: Sustainable use of components of biological diversity – Minimise impacts of use on biodiversity; protect customary use of biodiversity; implement remedial action where biodiversity has been reduced; encourage collaboration between government and private sector.**

**CITES Goal 3: Contribute to the reduction and ultimate elimination of illegal trade in wild fauna and flora.**

- National CBD focal points to collaborate with national CITES authorities in implementing the provisions of Article 10 for CITES listed species.
- CITES Secretariat and Parties to develop guidelines for making non-detriment findings for particular species groups taking account of Addis Ababa Sustainable Use Principles and to provide case studies to inform CBD Parties about practical application of Sustainable Use Principles.

**CBD Article 11: Incentives measures - adopt measures that act as incentives for the conservation and sustainable use of components of biodiversity.**

**CITES Goal 1: Enhance the ability of each Party to implement the Convention**

- Both Conventions are now collaborating on incentive measures.
- CITES and CBD authorities to investigate potential for incentives from exceptional trade in Appendix I-listed species.
- CITES and CBD authorities to investigate cost benefit relationship and incentive structure of commercial captive breeding of Appendix I and II species on conservation.
- CITES authorities to investigate the perverse impacts of trade measure
  - E.g. potential for long-term loss of markets following imposition of trade restrictions or stricter domestic measures.

**CBD Article 12: Research and training.**

**CITES Goal 2: Strengthen the scientific basis of decision-making.**

- CBD Parties to support capacity building for CITES Scientific and Management Authorities to make non-detriment findings (assistance as required to mega-diverse exporting countries).
- Collaboration between GISP and CITES in training customs officials to deal with CITES species and invasive aliens.

**CBD Article 13: Public awareness**

**CITES Goal 4: Promote greater understanding of the Convention**

- Collaboration between CITES Authorities and CBD in raising awareness of CITES as a mechanism to promote sustainable Trade.

**CBD Article 14: Impact assessment and minimising adverse impacts**

- CBD Focal points to conduct impact assessments for establishment of captive breeding facilities for exotic and native CITES-listed species.
- National CITES authorities to collaborate with CBD focal points to alert importing states to potential alien Invasive species, once the list of potentially invasive CITES listed species has been compiled.

**CBD Article 15: Access to genetic resources**

- CBD Focal points to liaise with CITES authorities.

**CBD Article 17: Exchange of information**

- CBD and CITES Secretariat to collaborate in preparing a guide to the Clearing House Mechanism to identify information useful to CITES Scientific Authorities in their role of making non-detriment findings.

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The CITES Convention Text, Resolutions, and Strategic Plan are available via the CITES website: [www.cites.org](http://www.cites.org).


### 3.12 Access and Benefit Sharing – Potential for Mutual Supportiveness in Between CITES and CBD Implementation; presentation of outcomes from the Lima workshop, VICTORIA LICHTSCHEIN



**Regional workshop on the synergies between the Convention on Biological Diversity and CITES regarding access to genetic resources and benefit sharing:**


**The role of the Certificates of Origin**

Lima, Perú, 17 and 18 November, 2003



The Workshop was organized by IUCN (Environmental Law Centre), INRENA Instituto Nacional de Recursos Naturales, Perú), INE (Instituto Nacional de Ecología, México), and Sociedad Peruana de Derecho Ambiental (SPDA)

Lima, Perú, 17 and 18 November, 2003



**Representatives from:**

Argentina, Chile, Perú, Venezuela, Costa Rica, Ecuador, Mexico

Comunidad Andina de Naciones  
TRAFFIC-Sur  
UICN-Sur  
IUCN-ELC  
UNU  
SPDA  
Centro Internacional de la Papa (CGIAR)

**Objective of the meeting**

To analyse the relationship between CITES and the concept of access and benefit-sharing (ABS) under the CBD.

CITES' experience in the administration of an export/import permit system acting in both exporting and importing countries served as a basis for discussion on the development of a "Certificate of Origin" or "Certificate of Legal Provenance" of genetic resources, as an internationally recognised component of ABS.

## Background

In Decision VI.24, the Conference of the Parties:

.....  
*Requests the Executive Secretary, with the help of other international and intergovernmental organisations such as the World Intellectual Property Organisation and through the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions of the Convention, where appropriate, to undertake further information gathering and analysis with regard to:*  
 .....

- > Feasibility of an internationally recognised certificate of origin system as evidence of prior informed consent and mutually agreed terms;

## The Bonn Guidelines

Through Decision VI.24, the CoP also adopted the Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of the Benefit Arising out of their Utilization, but at the same time recognised that further work on this matter was needed

The Ad Hoc Working Group Open-ended Working Group on Access and Benefit-sharing was re-convened

## Background

The World Summit on Sustainable Development (WSSD), in its Plan of Implementation, decided to "negotiate within the framework of the Convention on Biological Diversity, bearing in mind the Bonn Guidelines, an international regime to promote and safeguard the fair and equitable sharing of benefits arising out of the utilization of genetic resources"

Work on ABS under the CBD has since been focused on this mandate

## The Bonn Guidelines

- They are of a voluntary nature and their impact will depend on their implementation by Parties
- They provide an interim mechanism, until negotiations concerning an international regime are concluded

## Definition of concepts

This is an issue of utmost importance:

Concepts such as biological diversity, biological resources, biotechnology, country of origin of genetic resources, country providing genetic resources, *ex situ* conservation, *in situ* conservation, genetic material, genetic resources, and *in situ* conditions are defined in the text of the Convention,

## Definition of concepts

While others, such as:

*access to genetic resources, commercialisation, derivatives, provider, benefit-sharing, user, stakeholder, ex-situ collections, voluntary nature*

still need to be defined, as part of the work of the Ad Hoc Open-Ended Working Group on ABS

Definition of terms will play a key role in the process of elaborating and negotiating an international regime on ABS

## Definition of concepts

Of course, terms like "certificate of origin" and "legal provenance" also need to be defined.

## Components of the CLP

- A Certificate...
  - > is a guarantee issued by a governmental institution that is
  - > internationally recognised
- ... of legal...
  - > The exporter has complied with the legal provisions for access to genetic resources in that country
  - This requires a legal framework in the country of origin/issuance
- ... provenance
  - > This is a complex concept:
    - Origin:
      - Biological definition (difficult to prove...)
      - Problems when more than one resource is involved
      - who is the legal provider of the resource?
    - Provenance:
      - Problem with *ex situ* collections

## Implications for *ex-situ* collections

How would the certificate system work for *ex-situ* collections of germplasm, research centres, etc.?

Relationship with FAO Treaty on Plant Genetic Resources for Food and Agriculture:

Only covers a limited list of crops

The relationship between a CPL system and the Treaty should be further explored

The CLP, however, may be applicable to PGR's in important *ex-situ* collections

## What is a Certificate of Legal Provenance?

From a practical point of view:

- It is a document that accompanies the genetic material
- It is a statement of compliance with access provisions of the CBD (Prior Informed Consent and Mutually Agreed Terms)
- It includes conditions on use of material to be exported

## What is a Certificate of Legal Provenance?

From an operational point of view:

- > It may be used to demonstrate the right to use the material, on a voluntary basis, in different procedures and before different authorities
- > It may be mandatory for several formal procedures:
  - When applying for intellectual property rights
  - Authorisation of products
  - Transboundary movements
  - Inspection of laboratories and collections
- > It may be registered in databases that allow the providers to follow the movements of materials

## What is a Certificate of Legal Provenance?

A CLP is not simply an export document: it forms part of an International System of Tracedability for genetic resources from their origin to their successive destinies

## What is a CLP?

The CLP should not be confused with national procedures such as contracts, internal permits, authorisations, agreements and others.

The CLP is simply a “passport” that travels with the resource, that can be monitored and verified in different stages of access and use and across various jurisdictions.

It will guarantee that PIC was granted by a competent authority and that there was an agreement on the terms of access, as well as compliance with pertinent national norms.

## CITES permit vs. CLP

It involves materials/specimens in trade	It is initiated with biological sample, but may later apply to progeny, derivatives and even to information
Its role ends with the introduction to the importing country	It has no initiation or finalisation date; a process is involved
It covers only one operation (except for re-exports)	It may cover multiple operations
Its aim is to prevent and/or mitigate the negative impacts of trade	Its aim is to promote fairer and more equitable relationships between providers and users of a resource
It may include or cover look-alike species, as a precautionary measure	It may need to incorporate mechanisms to deal with GR from <i>ex situ</i> sources

## CITES permit vs. CLP

An agency decides on compliance with criteria for export/ import (non-detriment finding, legal acquisition)	An agency decides on compliance with PIC and arrangements on benefit-sharing
The regulated action starts and ends with trade	The regulation of access implies a process, not just a movement
Customs officers verify compliance	Other areas may be involved as well
The person requesting document knows the value of specimen	The person requesting document does not know the value of specimen (great uncertainty)
The product is well described	The “product” is sometimes unknown (e.g. coded samples)
Main issue: conservation, sustainable use	Main issue: fair and equitable sharing of benefits

## Recommendations

However, there will be training and capacity-building needs for authorities issuing the Certificate, and officials controlling borders and other check-points

Relationship between CITES Management Authorities and CLP issuing authorities should be explored to reduce costs



## Recommendations

To incorporate a general clause in CITES permits/certificates (and other official export documents), to safeguard the rights over genetic resources

A disclaimer:

"This permit does not in itself authorise the use of these materials for research and development of the genetic resources within"

This will depend on the national legislation of each Party

## CBD / CITES

- These two international instruments do not necessarily share elements, they rather work "in parallel" (they do not operate jointly)
- CBD can benefit from CITES vast experience in issuing export/import documents
- A comparison between both systems would be useful
- What should be done with access and benefit sharing?
- The subject of Article 8j) and related provisions under CBD (responsibilities in two levels)
- Verification and monitoring as a complementary condition for a CLP
- Need to design efficient mechanisms that work for the industry (viability)

## Challenges

- Mechanisms to keep the cost of the system low
- Is the burden of proof reversed?
- Is the system an obstacle to exchange of materials?
- How do we avoid encouraging an illegal market?
- Voluntary or binding?
- What authorities are needed?
- Traditional knowledge
- Sanctions

## Recommendations

The relationship between ABS and traditional knowledge has been repeatedly addressed by CBD:

A CLP might also be used to provide evidence of compliance with national legislation for the use of traditional knowledge associated with GR's.

This area deserves further exploration

### **Recommendations**

CITES provides an example on potential costs and structure of a Certificate system

In the case of CLP, measures should be analysed from a cost-benefit perspective, learning from the experience of CITES and seeking complementarities and synergies

### **Conclusion**

Although there is still much to be clarified in terms of the legal nature, scope, essential characteristics, economic viability and practicality, among others, it is clear that the notion of a certificate or document (certificate of origin, legal provenance, etc.) is well recognized and accepted.

CLP is a good idea



## 4 Background Documents

### 4.1 Synergies and Cooperation, UNEP<sup>1</sup>

# Synergies and Cooperation

*A status report on activities promoting synergies and cooperation between Multi-lateral Environmental Agreements, in particular biodiversity-related conventions, and related mechanisms*

**Prepared by the  
UNEP World Conservation Monitoring Centre  
Cambridge, UK**

*May 2004*

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<sup>1</sup> This is an extract of a longer paper.  
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**Synergies and Cooperation:** *A status report on activities promoting synergies and cooperation between Multilateral Environmental Agreements, in particular biodiversity-related conventions, and related mechanisms*

This status report on recent work undertaken by individual MEAs, UNEP, other United Nations agencies, and other institutions on synergies and cooperation between MEAs should help these bodies to coordinate further activities aimed at increasing synergies, with a view to avoid duplication, to become more efficient and effective, and to improve implementation.

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<sup>2</sup> Note: Cooperative measures between two or more conventions or mechanisms are in most cases mentioned under one mechanism only.

## Executive Summary

### Justification

1. There has been a significant amount of work undertaken on exploring synergies and cooperation between Multilateral Environmental Agreements (MEAs) and in particular the biodiversity-related conventions, by a range of organisations, and a risk exists of duplication of future efforts unless all concerned are clear about the main work done so far. With the ambitious target of achieving by 2010 a significant reduction of the current rate of biodiversity loss at the global, regional and national level, set by the Strategic Plan of the Convention on Biological Diversity and subsequently endorsed by the World Summit on Sustainable Development, synergy efforts become even more relevant. Preparation of a synoptic report on the ongoing work, and dissemination of this report to interested parties, is expected to help to draw attention to the breadth of work underway and help to increase collaboration in implementing this work.

2. The efforts on harmonization and synergies have received strong support from various meetings of the UNEP Governing Council, the Environmental Management Group (EMG), and from the Plan of Implementation of the WSSD. Moreover, Conferences of the Parties (COPs) of many conventions have asked for a continuation and strengthening of existing efforts.

3. This report is a desk study conducted for UNEP's Division of Environmental Conventions (UNEP DEC) to review recent work undertaken by individual MEAs, UNEP, United Nations University (UNU), other United Nations agencies, and other institutions on synergies and cooperation between MEAs. The report wants to suggest ways in which these bodies might coordinate further activities aimed at increasing synergies, with a view to avoid duplication and to become more efficient and effective. The report has some focus on the biodiversity-related conventions, but looks at other MEAs as well.

### Existing initiatives in synergies and cooperation

4. Most MEAs have embarked on synergistic activities with other MEAs and related instruments. Amongst the five *biodiversity-related conventions* – CBD, CITES, Convention on Migratory Species, Convention on Wetlands, World Heritage Convention - a multitude of Memoranda of Understanding/Cooperation have been adopted, and a number of joint work programmes exists. Joint activities include the cooperation between subsidiary scientific and/or technical bodies and the joint collaboration in scientific assessments such as the Millennium Ecosystem Assessment. In addition, the five conventions have established a joint website.

5. The *Convention on Biological Diversity* (CBD), as a treaty with a specifically wide remit, is cooperating with a large number of agreements, instruments and institutions. The CBD has identified lead partners for some of its thematic work programmes, such as the Ramsar Convention on Wetlands for the inland waters work programme and the Food and Agriculture Organization of the United Nations (FAO) for its work programme on agriculture. Other partners include the United Nations Convention to Combat Desertification (UNCCD) for the CBD's work programme on dry and sub-humid lands, and the United Nations

Forum on Forests (UNFF) and members of the Collaborative Partnership on Forests (CPF) for its work programme on forest biological diversity.

6. The *Convention on International Trade in Endangered Species of Wild Fauna and Flora* (CITES) works with a range of partners, *inter alia* with the CBD on non-timber forest resources, incentive measures, sustainable use, and the Global Strategy for Plant Conservation, and with the International Whaling Commission on conservation of cetaceans and trade with cetacean specimen. Among a range of other activities, there is also, for example, close collaboration with the Basel Convention and the Montreal Protocol, forming a 'trade cluster' of MEAs. Detailed provisions for cooperation with the CBD and other agreements are outlined in the CITES Strategic Vision.

7. The *Convention on Migratory Species* (CMS) cooperates with several other conventions and institutions, including through joint work plans with CBD and the Convention on Wetlands. In the framework of the former, efforts are being undertaken to harmonizing reporting and making case studies on migratory species available to both conventions, amongst others through a joint website. The CMS has developed an Information Management System that offers not only the information provided by the Parties to the CMS and its Agreements but also information from other conventions as well as UN agencies and other organisations.

8. The *Ramsar Convention on Wetlands* works closely with a number of partners, including through joint work programmes with the CBD, the CMS and the African-Eurasian Migratory Waterbirds Agreement (AEWA), the UNESCO Man and the Biosphere programme and the South Pacific Regional Environment Programme (SPREP). The Convention's Strategic Plan has incorporated provisions on harmonization and synergies and the Conference of the Parties (COP) has urged its Parties to make use of the CBD guidelines for incorporating biodiversity related issues into environmental impact assessment legislation and processes and in strategic environmental assessment.

9. The Operational Guidelines of the *Convention Concerning the Protection of the World Cultural and Natural Heritage* (World Heritage Convention) carry provisions for the strengthening of synergies with other agreements, including the other biodiversity-related conventions. A Memorandum of Understanding has been agreed with the Convention on Wetlands, while a MoU with the CBD is in preparation. The Convention participates in joint initiatives such as the Great Apes Survival Project and a number of joint site-based activities.

10. A range of activities promote synergies between the three *Rio Conventions* (CBD, UNFCCC, UNCCD), including a joint liaison group, established in 2001, and a joint web-based calendar of events.

11. The *United Nations Framework Convention on Climate Change* (UNFCCC) is cooperating particularly with the CBD and the UNCCD, mainly through the Joint Liaison Group. One of its recent activities has been the organisation of a workshop on synergies amongst the three Rio Conventions.



12. The *United Nations Convention to Combat Desertification* works with a number of partner conventions and UN agencies. The Land Degradation Assessment in Drylands (LADA) is a partnership between the FAO, UNEP, UNCCD, Global Environment Facility (GEF), the UNCCD's Global Mechanism and others to provide up-to-date ecological, social, economic and technical information to guide integrated and cross-sectoral planning and management in drylands. In 2000, the UNCCD has begun a National Synergies Workshop Programme, supporting the national identification of synergies with other relevant conventions, with workshops being held in a number of African, Latin American and Caribbean, and Asian countries.

13. Supported by a number of decisions of the UNEP Governing Council and by the Strategic Guidelines for the Regional Seas, the *UNEP Regional Seas Conventions and Action Plans* have established cooperative links with other MEAs and organisations, including the International Maritime Organization, the International Atomic Energy Agency, the Intergovernmental Oceanographic Commission of UNESCO, FAO, the CBD and the Convention on Wetlands. The Conference of the Parties to the CBD has acknowledged the core role of the Regional Seas Conventions and Action Plans for implementing the programme of work on marine and coastal biodiversity, including on coral reefs and marine and coastal protected areas.

14. The *Stockholm Convention on Persistent Organic Pollutants*, the *Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade*, and the *Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal* are the legal regimes within the global efforts for chemical safety, represented by the Intergovernmental Forum on Chemical Safety (IFCS) and the Inter-Organization Programme for the Sound Management of Chemicals (IOMC). The three conventions collaborate closely, through, *inter alia*, joint projects and workshops, and the Best Available Techniques/Best Environmental Practices (BAT/BEP) for reducing/eliminating POPs releases from waste destruction sources. They have, in addition, developed options for clustering of chemicals and waste-related multilateral agreements. With the support of the IFCS and UNEP, a Strategic Approach to International Chemicals Management (SAICM) has been initiated. It aims at advancing the sound management of chemicals, the identification of gaps and proposing concrete projects and priorities. A major International Conference on Chemicals Management is in preparation for 2006.

15. UNEP has been playing a major role in many of the existing initiatives on harmonization and synergies. UNEP has been convening coordination meetings of convention secretariats. It also publishes a *Synergies* bulletin. Following from concerns by national governments over the burden of reporting to a multitude of MEAs, UNEP has undertaken pilot projects on a range of options for harmonized reporting in four countries. Other UNEP-supported initiatives include the protection of sturgeon resources of the Caspian Sea, the Great Apes Survival Project, and the Marine Mammal Action Plan. Another initiative with substantial UNEP input is the GreenCustoms project that develops an integrated training programme for custom officers in the field of combating illegal international trade in commodities such as ozone depleting substances, toxic chemicals, hazardous waste and endangered species. Of specific interest are the efforts

of the Montreal Protocol on Substances that Deplete the Ozone Layer and the United Nations Framework Convention on Climate Change (UNFCCC) to cooperate through, amongst others, pilot projects and develop linkages between the ozone and the climate regimes. The UNEP/UNDP/GEF Biodiversity Planning Support Programme prepared a study on 'Legislative Complementarity and Harmonization of Biodiversity-related MEAs'.

16. The *United Nations University* (UNU) has undertaken a wide range of activities promoting synergies between MEAs. In 1997, UNU established the Inter-linkages Initiative, which has held an international conference, an Eminent Persons meeting, and several regional and national workshops, particularly in Asia and the Pacific, and published a number of Policy Briefs. Case studies have been undertaken in several Pacific Island and ASEAN countries.

17. The *United Nations System Chief Executives Board (CEB) for Coordination* has the aim to further coordination and cooperation on the whole range of substantive and management issues facing the UN system. Through its High-Level Committee on Programme, it currently works on a number of issues of relevance to the environmental agenda, including the 2005 review of the implementation of the Millennium Declaration, follow-up to the International Conference on Financing for Development, the New Partnership for Africa's Development (NEPAD), and the follow-up to the World Summit on Sustainable Development.

18. The *United Nations Development Programme* (UNDP) assists countries to maintain and sustainably use the biodiversity that underpins poverty reduction and achievement of the Millennium Development Goals. Biodiversity provides the critical 'ecosystem services' on which development depends. Thus UNDP has made *Biodiversity for Development* a primary focus of its Energy and Environment Practice. Through its 130 Country Offices operating in 166 countries UNDP directly assists countries to develop the capacity to conserve and sustainably use biodiversity in the long term. Closely linked activities on the part of its Country Offices, the UNDP Global Environment Facility (UNDP GEF), the GEF's Small Grants Programme (GEF SGP), the Drylands Development Centre, the Equator Initiative, and the Biodiversity Global Programme enable UNDP to assist developing countries to deliver on their goals of implementing the objectives of the Convention on Biological Diversity (i.e. conservation, sustainable use, and access and benefit sharing) and the Millennium Development Goals. UNDP provides its assistance to this end through capacity development, knowledge management, policy advice and advocacy.

19. The *Global Environment Facility* (GEF) is supporting interlinkages between its six focal areas: biodiversity, climate change, international waters, ozone, land degradation, and persistent organic pollutants. It gives high priority to multifocal projects. The Operational Programme on Sustainable Land Management specifically promotes synergies between the three Rio Conventions.

20. The *World Bank* focuses its biodiversity-related work increasingly on the following themes: exploring the linkages between biodiversity and poverty, valuing biodiversity services, mainstreaming stakeholder participation in biodiversity protection, and mainstreaming biodiversity into sectoral programmes and

projects. The Bank works with a range of partner institutions. The Critical Ecosystem Partnerships Fund, a joint initiative of the Bank with Conservation International, the Global Environment Facility, the MacArthur Foundation and the Government of Japan aims to provide \$150 million over five years for the conservation of the most biologically significant and threatened areas of the world. The World Bank - World Wildlife Fund (WWF) Alliance for Forest Conservation and Sustainable Use promotes forest conservation and the adoption of international best practices in forest management.

21. The *Commission on Sustainable Development* (CSD), at its eleventh session in 2003, invited the secretariat of the Commission to improve national reporting guidelines and questionnaires with the intention of making reporting more efficient and less burdensome on countries and more focused on implementation. The Guidelines for national reporting to CSD 12 (April 2004) encourage countries that have reported or are in the process of reporting on the Millennium Development Goals through UNDP, to make use of and build on that process in reporting on the targets relevant to the CSD-12 thematic areas of water, sanitation and human settlements.

22. Within the forest sector, the *United Nations Forum on Forests* (UNFF) is cooperating with a number of other organisations. With the CBD, cooperation is focusing on the relationship between the IPF/IFF proposals for action and the expanded programme of work on forest biological diversity under the CBD, as well as on the linkages between the concept of the ecosystem approach and the concept of sustainable forest management.

23. The main mechanism for cooperation within the forest sector is the *Collaborative Partnership on Forests* (CPF). The CPF has embarked on a number of collaborative initiatives, including a Sourcebook on Funding Sustainable Forest Management and an Initiative on Forest-related Definitions. The CPF Task Force on Streamlining Forest-related Reporting has analysed its members' forest-related reporting and has developed an electronic portal designed to help users find information related to national reporting on forests underway in various international organisations, institutions and instruments.

24. The *Global Partnership on Forest Landscape Restoration* is a network of governments, organisations, communities and individuals who recognise the importance of forest landscape restoration and want to be part of a coordinated global effort. The partnership's Forest Restoration Information Service (FRIS) plays a critical role as an information resource and in promoting information sharing among partners and other restoration practitioners.

25. The International Tropical Timber Organization, the UN Economic Commission for Europe, FAO and Eurostat have developed a joint questionnaire to collect country data on production, consumption and trade in forests products.

26. In support of the Global Strategy for Plant Conservation (GSPC), adopted by the Convention on Biological Diversity, a *Global Partnership for Plant Conservation* was launched in 2004. Currently consist-

ing of 15 organisations, the Partnership aims to provide a framework to facilitate harmony between existing initiatives aimed at plant conservation, to identify gaps where new initiatives are required, and to promote mobilisation of the necessary resources.

27. The *Global Invasive Species Programme* (GISP) is a partnership of several organisations and institutions, founded in 1997, with a mission to conserve biodiversity and sustain human livelihoods by minimizing the spread and impacts of invasive alien species. GISP has undertaken assessments of the global invasive species problem and developed guides and toolkits for policy, regulation, prevention and management. GISP is engaging and informing governments and stimulating action and cooperation nationally, between governments and sectors such as environment and agriculture.

28. Within Europe, a number of activities are focusing on streamlining reporting and supporting countries to fulfill their reporting requirements for MEAs and specific European or European Community regulations. In this regard, the *European Environment Agency* (EEA) has developed a *Reportnet*, which contains a Reporting Obligations Database. The *European Community Biodiversity Clearing-House Mechanism* (EC CHM) is collaborating with all member countries of the European Environment Agency (EEA) towards interrelated websites in Europe. The *European Commission* is currently elaborating an EC Framework Directive for Reporting which focuses on reporting obligations for member states of the European Union and on information supporting the national implementation of MEAs and European regulations. A pan-European collaboration on guidelines and development of biodiversity monitoring and indicators is under establishment with the EEA the European Centre for Nature Conservation, the Pan-European Biological and Landscape Diversity Strategy, and several other interested organisations.

29. A significant part of *IUCN - The World Conservation Union's* work focuses on developing synergistic international and regional approaches. This includes synergies between particular instruments, such as a major collaborative study examining the relationship between the CBD and UNFCCC. IUCN also addresses particular biomes or cross-cutting issues, such as forest conservation, transboundary and high-seas protected areas, and invasive species. Other work areas include linkages between key international environmental concepts and critical issues in other sectors, such as biodiversity and health, sustainable livelihoods, and the development of an international regime on access and benefit-sharing. Examples for regional initiatives include the IUCN Regional Biodiversity Programme Asia's support to the harmonization of the biodiversity and climate change regimes on the regional and national level. IUCN's work in Africa includes, among others, the involvement in key processes for the revision of the African Convention on Nature Conservation, which is now more directly focused on synergies in the implementation of conservation and sustainable use conventions in the African continent.

30. IUCN is also the main force behind the *Global Biodiversity Forum* (GBF), an independent multi-stakeholder forum that holds meetings in conjunction with major conventions meetings, especially of the CBD. Many of these meetings discuss experience with and options for a synergistic approach between conventions.

31. A wide range of additional studies, reviews and workshops in support of synergies and harmonization has been conducted. Examples include the *International Institute for Environment and Development* (IIED) Briefing Paper for the World Summit on Sustainable Development on 'Knowledge Needs for Better Multilateral Environmental Agreements', addressing substantive and procedural coherence between MEAs, the *OECD Development Assistance Committee* study 'The DAC Guidelines: Integrating the Rio Conventions into Development Co-operation', and studies on the relationship between MEAs and the World Trade Organization by the *Royal Institute for International Affairs* (Chatham House). In April 2004, *TRAFFIC* convened a joint workshop with Fauna and Flora International, IUCN, the German Federal Agency for Nature Conservation, the German Agency for Technical Cooperation, CITES, CBD and UNEP, to promote synergies and cooperation between CITES and the CBD.

32. *Academic research* includes, for example, a publication by Leiden University on synergies between the CBD and the UNCCD in West Africa, a study on tensions and synergies between CITES and the CBD, and a publication on conflicts in international environmental law.

33. The *South Pacific Regional Environment Programme* and the United Nations University issued a handbook with information on four chemical conventions, the Waigani Convention, the Basel Convention, the Rotterdam Convention, and the Stockholm Convention. The handbook aims to support the environmentally sound management of toxic chemicals and hazardous waste, particularly in the South Pacific region.

34. In October 2003, the *International Marine Project Activities Centre* (IMPAC), Townsville, Australia organised a conference on International Environmental Conventions and Instruments: An Open Dialogue on Responsibilities, Issues, Problems & Solutions for Pacific Island Countries and the Pertinent Conventions.

35. In March 2004, the *United Nations University* and the *South Pacific Regional Environment Programme* convened the Inter-linkages Regional Meeting on Integrated Capacity Development in the Pacific on Multilateral Environmental Agreements, in Nadi, Fiji.

## **Recommendations**

36. Overall, a great deal of experience and expertise has been gained from the existing initiatives towards synergies and cooperation between MEAs. The level of inter-linkages differs between the MEAs, with several conventions having progressed substantially in this regard, particularly on the institutional and policy-making level. A number of recommendations is provided here that could give a focus to further initiatives. It is important to recognise, however, that the identification and implementation of synergies is a process that needs to be implemented in accordance to the identified needs, the ongoing processes and available resources of each MEA. The individual recommendations provided here do not apply to all conventions, and their implementation would in many cases require additional resources.

- Convene regular meetings of groups of related conventions in the form of joint liaison groups.
- Establish links between information management systems, on issues such as species or sites. Links to websites such as the one of the CBD Clearing-House Mechanism would be particularly useful.
- Harmonize terminology and classification, including common taxonomies, glossaries, lists of abbreviations, definitions and terminology, and further cross-convention standards. Seek, for example, taxonomic synonymy for taxa protected by different MEAs.
- Share case studies and best practices by making them available across MEAs in a coordinated and standardised way. This could develop into a 'Best Practices Library'.
- Develop thematic partnerships around shared areas of concern, including not only MEAs but also other relevant organisations.
- Enhance cooperation of subsidiary scientific and technical bodies of MEAs building on mutual invitations to actively participate in relevant meetings, and regular meetings of the chairs of these bodies.
- Develop a modular approach to implementation of MEAs where the information on specific topics could be held in one place and being made available for the implementation of as well as reporting to a range of conventions and mechanisms.
- Strengthen cross-sectoral harmonization initiatives, such as the GreenCustoms project, the initiatives between the climate and the ozone regimes, and the ones between the biodiversity-related conventions and the regional seas conventions and programmes.
- Further promote the harmonization of reporting to the biodiversity-related conventions, by building, *inter alia*, on the results of the UNEP pilot projects, specifically:
  - Consider a more harmonized scheduling of reporting timetables
  - Harmonize, where relevant, the structure of reporting formats
  - Develop a consolidated Biodiversity Reporting Manual
  - Consider regional assistance to governments for their national reporting
  - Develop national coordination units and national biodiversity databases/clearing-house mechanisms
  - Link reporting to biodiversity-related conventions to the reporting on the State of the Environment
  - Further test the modular approach to reporting and the consolidated reporting.
- Further develop harmonization between site-based agreements, including joint definitions and criteria, shared standard data forms, joint site-based activities and demonstration projects, and joint missions to threatened sites.
- Build the capacity of national MEA focal points and all staff involved on the national level.

- Establish synergy mechanisms for national MEA focal points, including regular information exchange, regular meetings, shared information management facilities. Subject to sufficient resources, a national conventions coordination office and integrated MEA implementation strategies are further options to strengthen a streamlined and harmonized approach to MEA implementation at the national level.
- Gather the emerging experience on national and regional synergy workshops.
- Continue UNEP's supporting role to MEAs and countries, through facilitating and promoting the consolidation of existing activities and expansion into new areas, particularly regarding coordination meetings between convention secretariats and establishing and coordinating specific harmonization and synergy projects.
- Continue the UNU's role in building inter-linkages between MEAs, possibly expanding its regional remit to other regions.
- Develop a joint UNEP/UNU work programme on MEA synergies and harmonization.
- Integrate synergies and harmonization into donor priorities and allow for linking of responses to global environmental threats to national poverty reduction and other development plans.
- A workshop or an electronic consultation could agree on further practical steps to promote synergies between MEAs.

## Introduction

*The global environment is naturally synergistic*<sup>3</sup>.

### Justification

37. There has been a significant amount of work undertaken on exploring synergies and cooperation between Multilateral Environmental Agreements (MEAs) and in particular the biodiversity-related conventions, by a range of organisations, and a risk exists of duplication of future efforts unless all concerned are clear about the main work done so far. There are two major international targets that make synergy efforts even more relevant. The first is the ambitious target of achieving by 2010 a significant reduction of the current rate of biodiversity loss at the global, regional and national level, set by the Strategic Plan of the Convention on Biological Diversity and subsequently endorsed by the World Summit on Sustainable Development. The other target has been developed under the Millennium Development Goal (MDG) 7<sup>4</sup>: 'Integrate the principles of sustainable development into country policies and programmes and reverse the loss of environmental resources'.

38. Preparation of a synoptic report on the ongoing work, and dissemination of this report to interested parties, is expected help to draw attention to the breadth of work underway and help to increase collaboration in implementing this work.

### Mandate

39. The *World Summit on Sustainable Development* (WSSD) in August/September 2002 underlined the need to strengthen collaboration within and between the United Nations system and other relevant international organisations, to encourage effective synergies among multilateral environmental agreements, and for increased scientific and technical cooperation between relevant international organizations<sup>5</sup>.

40. At its first meeting on 22 January 2001, the *Environmental Management Group* (EMG)<sup>6</sup> discussed the issue of harmonization of national reporting and agreed to establish an Issue Management Group (IMG) dealing with this issue (Decision 3). UNEP was invited to serve as task manager, focusing on biodiversity-related conventions while considering the relevance of biodiversity-related aspects of other MEAs. A

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<sup>3</sup> United Nations University. 1999. *Inter-Linkages – Synergies and Coordination between Multilateral Environmental Agreements*. Tokyo.

<sup>4</sup> MDG 7: Ensure environmental sustainability.

<sup>5</sup> WSSD Plan of Implementation, Paragraph 42

<sup>6</sup> The Environmental Management Group (EMG) is chaired by the Executive Director of UNEP and includes among its members the specialised agencies, funds and programmes of the UN system and the secretariats of MEAs. The EMG focuses on environment and human settlement issues, in the context of the linkages between environment and development. The most important goal of the EMG is to achieve effective coordination and joint action in key areas of environmental and human settlements concerns.



note by the UNEP Executive Director on Harmonization of Information Management and Reporting for Biodiversity-related Treaties, which was discussed at subsequent meetings of the EMG, included a range of recommended actions. Also, an Action Plan for Harmonization and Streamlining of National Reporting and Information Management to Support the Implementation of Global Biodiversity-related Conventions was envisaged by EMG.

41. Several MEAs carry provisions for collaboration with other conventions and agreements<sup>7</sup>. Various decisions by *Conferences of the Parties* (COPs) to the biodiversity-related conventions have requested the continuation of the work on harmonization and synergies. For example, the 6<sup>th</sup> COP to the Convention on Biological Diversity (CBD), in decision VI/20, welcomed ‘the work of the United Nations Environment Programme on the harmonization of environmental reporting’ and encouraged its continuation and ‘urged Parties to take steps to harmonize policies and programmes, at the national level, among the various multilateral environmental agreements and relevant regional initiatives, with a view to optimising policy coherence, synergies and efficiency in their implementation, at the national, regional and international levels’.

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<sup>7</sup> For example, a specific mention for collaboration can be found in Articles 7.2(l) and 8.2(e) of the United Nations Framework Convention on Climate Change (UNFCCC), Articles 5 and 24(d) of the Convention on Biological Diversity (CBD) and Articles 8.1 and 23(d) of the United Nations Convention to Combat Desertification (UNCCD).

### National reporting and benefits of harmonization

42. A key issue for harmonization is Parties' reporting obligations to MEAs. As MEAs have multiplied, the number of reports and other information required from parties to those agreements have also increased significantly. Many countries, both developed and developing, have regularly expressed concern about the burden this imposes.

43. Reporting to MEAs serves a variety of purposes:

- Reports allow the governing bodies of agreements to assess implementation so as to be in a position to make rational decisions on future priorities and needs, and to provide, or guide the provision of, additional support where it is required.
- Reports may contain very specific information. For example the CITES annual report is very specific in providing the information necessary to determine the nature and volume of legal trade (also providing indication of potential illegal trade).
- Contracting parties are also frequently asked to provide other information beyond regular reports, such as expanded detail on specific issues, case studies and experiences, in order to support development of advice to contracting parties, and to promote the sharing of information between parties.
- Apart from the concern of reporting burden, there are strong concerns that the full value of the information gathered is not being realised due to limited access and lack of comparability. Multipurpose use of information provided in national reports (e.g. for national, regional or global assessment and planning) would be of significant benefit to national governments as well as facilitating interagency approaches and actions.

44. Streamlining of reporting could significantly increase the time and resources allotted to implementation. Thus, benefits of harmonization of reporting could accrue to all stakeholders, including national governments, MEA secretariats and governance bodies, and civil society.

### Scope and definitions

45. This report is a desk study conducted for UNEP's Division of Environmental Conventions (UNEP DEC) as part of UNEP's efforts to analyse the potential for synergies and harmonization between MEAs and to suggest a number of recommendations for implementing cooperative arrangements. It has a specific but not exclusive focus on the five global biodiversity-related conventions: Convention on Biological Diversity (CBD), Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), Convention on Wetlands (Ramsar Convention), Convention on Migratory Species (CMS) and World Heritage Convention (WHC). This focus stems from the advanced nature of cooperation among these conventions, which exhibit a wide range in terms of scales, funding mechanisms, parties, scope and complexity, making the biodiversity-related treaties a good example of the overall trend in synergies between MEAs. However, without aiming for a complete coverage, the paper explores synergies within other sets of environmental agreements, in particular the Rio Conventions, the regional seas agreements,

and the chemicals agreements. Therefore, the conclusions and recommendations intend to address not only the biodiversity-related conventions, but a wider range of MEAs.

46. After looking at the relevant activities of the biodiversity-related conventions and other MEAs, the paper outlines efforts of United Nations agencies, and other institutions, mechanisms and organisations. The paper finishes with conclusions and suggested recommendations.

47. A thorough review of synergistic activities on the national level is, despite its significance for the implementation of the conventions, beyond the scope of this paper and is therefore only referred to in the form of examples.

48. For the purposes of this paper, the following *definitions* apply. The terms are clearly not mutually exclusive:

- *Synergies*: Synergies include all activities that aim at enhanced collaboration of MEAs especially through linking processes in a way that increases the effects of the sum of the joint activities beyond the sum of individual activities, and thus making efforts more effective and efficient.
- *Harmonization*: The harmonization of information management and reporting is defined as those activities that lead to a more integrated process and greater potential for sharing information.
- *Inter-linkages*: Inter-linkages include synergies and coordination between MEAs.
- *Streamlining*: The streamlining of processes such as national reporting are defined as those mechanisms that make each individual reporting process or a joint, integrated process easier, and more efficient and effective, or more straightforward for contracting parties to implement.

## **Aim**

49. This status report on recent work undertaken by individual MEAs, UNEP, other United Nations agencies, and other institutions on synergies and cooperation between MEAs is aimed at suggesting ways in which these bodies might coordinate further activities and increase synergies, with a view to avoid duplication, to become more efficient and effective, and to improve implementation.

50. *Note that cooperative measures between two or more conventions or mechanisms are in most cases mentioned under one convention only.*

## Existing initiatives in synergies and cooperation

### Biodiversity-related conventions

#### Joint activities

##### *Joint programmes of work*

51. Over the last years, the biodiversity-related conventions (CBD, CITES, CMS, Convention on Wetlands, World Heritage Convention) have adopted more and more joint work programmes with other conventions and mechanisms. Amongst the biodiversity-related conventions, the following *joint programmes of work/joint work plans* exist:

- CBD and Convention on Wetlands
- CBD and CITES
- CBD and CMS
- CMS, African-Eurasian Migratory Waterbirds Agreement (AEWA) and Convention on Wetlands.

52. In addition, the *CBD* has developed joint programmes of work with the following conventions and mechanisms:

- United Nations Convention to Combat Desertification (UNCCD)
- Global International Waters Assessment
- Global Programme of Action for the Protection of the Marine Environment from Land-based Activities.

53. A joint work plan between *CITES* and CMS is under development. The *CMS*, with the African-Eurasian Migratory Waterbirds Agreement, has adopted an additional joint work programme with Wetlands International. The *Convention on Wetlands* has adopted additional joint programmes of work with the Man and the Biosphere Programme (MAB) and the South Pacific Regional Environmental Programme (SPREP).

#### *Memoranda of Understanding/Cooperation*

54. Memoranda of Understanding or Cooperation often provide the formal framework for enhanced cooperation between different bodies. The last years have seen an increase in the number of MOUs and MoCs being established between the biodiversity-related conventions and other mechanisms. Among the secretariats of the biodiversity-related conventions, the following *MoUs or MoCs* have been established:

- CBD and CITES
- CBD and CMS

- CBD and Convention on Wetlands
- CBD and World Heritage Centre<sup>8</sup> (in preparation)
- CMS and Convention on Wetlands
- CMS and CITES
- CMS and UNESCO (regarding World Heritage Convention and the Man and the Biosphere Programme)
- Convention on Wetlands and World Heritage Convention.

55. In addition, the Secretariat of the *CBD* has established MoUs or MoCs with some 30 organisations and institutions, including, *inter alia*:

- Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region (Cartagena Convention and the SPAW)
- UNCCD
- Council of Europe as Secretariat of the Bern Convention on the Conservation of European Wildlife and Natural Habitats
- The Coordinating Unit of the Mediterranean Action Plan (Barcelona Convention)
- The Coordination Office of the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities (GPA)
- International Plant Protection Convention (in preparation).

56. *CITES* has concluded Memoranda of Understanding with a number of conventions and organisations including the Basel Convention/Montreal Protocol, IUCN, TRAFFIC, the World Customs Organization, Interpol, and the Lusaka Agreement Task Force. In addition, *CITES* is preparing Memoranda of Understanding/Cooperation with UNEP and FAO.

57. The *CMS* has established additional Memoranda of Understanding/Cooperation with the following bodies:

- UNCCD
- International Whaling Commission
- Wetlands International
- IUCN.

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<sup>8</sup> The UNESCO World Heritage Centre is responsible for the coordination of all actions related to the implementation of the World Heritage Convention.

58. The *Convention on Wetlands* has established Memoranda of Understanding/Cooperation with some 25 organisations and institutions, including:

- UNCCD
- Cartagena Convention
- Barcelona Convention.

### ***Joint scientific activities***

59. The *subsidiary scientific bodies* of a number of the biodiversity-related conventions cooperate by mutual invitations to their respective meetings. The CBD *Ad hoc* Technical Expert Group on Biodiversity and Climate Change concluded a report *Interlinkages between biological diversity and climate change: advice on the integration of biodiversity considerations into the implementation of the Framework Convention on Climate Change and its Kyoto Protocol*. The report was welcomed by the CBD Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA) and the UNFCCC Subsidiary Body on Scientific and Technological Advice (SBSTA). Both conventions have encouraged their Parties to make use of it as a relevant source of useful information for their national purposes.

60. The *Millennium Ecosystem Assessment* (MA) is designed to support the needs of, *inter alia*, the CBD, UNCCD, CMS and the Convention on Wetlands, which are represented on the board of the MA. The Assessment focuses on ecosystem services and their relation with human well-being, as well as the responses that might be adopted at local, national and global scales. This approach is expected to produce results, which enable the conventions to draw conclusions in a synergistic manner, providing for cooperative responses to the findings.

### ***Joint websites***

61. The five global biodiversity-related conventions have established a joint website<sup>9</sup>. Besides information on the individual conventions and the recognition of the need for collaboration, the website offers links to the following features of the websites of the individual conventions: home page, overview of history, convention text, list of Parties, national focal points, COP meeting documents, calendar of events, contact information, and frequently-asked questions.

62. There is also a CBD-CMS joint webpage on case studies on migratory species<sup>10</sup>. Frequently, the webpages of the biodiversity-related conventions provide links to the other conventions, in the case of the CBD also to the UNFCCC and the UNCCD.

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<sup>9</sup> [www.biodiv.org/convention/partners-websites.asp](http://www.biodiv.org/convention/partners-websites.asp)

<sup>10</sup> [www.biodiv.org/other/cs.aspx](http://www.biodiv.org/other/cs.aspx)

## Convention on Biological Diversity (CBD)

### *Cooperation with other conventions and mechanisms*

63. The *Strategic Plan* of the CBD, adopted in decision VI/26, identifies the following strategic goal: 'The Convention is fulfilling its leadership role in international biodiversity issues', with, *inter alia*, the following strategic objectives:

'...1.2. The Convention is promoting cooperation between all relevant international instruments and processes to enhance policy coherence.

'...1.3. Other international processes are actively supporting the implementation of the Convention, in a manner consistent with their respective frameworks'.

64. This reflects the wide remit of the CBD and hence, the convention has established a growing number of MoU/MoC and joint work plans with other agreements and institutions, especially for the implementation of the major CBD work programmes. The CBD's leadership role has gained specific significance in the light of the 2010 target of significantly reducing the rate of biodiversity loss, as outlined in the CBD Strategic Plan and endorsed by the Plan of Implementation of the World Summit on Sustainable Development. The CBD COP 7 in 2004 invited UNEP-WCMC to support the CBD Secretariat in facilitating the compilation of information necessary for reporting on achievement of the 2010 target.

65. The *Ramsar Convention on Wetlands* has been recognised by the CBD COP as a lead implementation partner for wetlands. A third Joint Work Plan between the conventions, for the period 2002-2006 is being implemented. This recognises that synergy exists across all CBD coverage, and includes joint actions under each of the CBD's ecosystem themes and cross-cutting issues. Under the plan, a joint *River Basin Initiative* is being further developed, and the two conventions collaborated in the review and preparation of the revised programme of work on inland water biological diversity adopted by CBD COP 8, and in the preparation of rapid assessment methodological guidance for inland waters and marine and coastal ecosystems. Further work on the convergence of criteria and classification of inland water ecosystems is under development.

66. For the programme of work on marine and coastal biodiversity, a number of cooperative arrangements have been concluded. An example is a joint study by the Secretariat of the CBD and the United Nations Division of Ocean Affairs and Law of the Sea on the relationship between the CBD and the *United Nations Convention on the Law of the Sea* (UNCLOS) with a view to enabling the CBD SBSTTA to address the scientific, technical and technological issues relating to bioprospecting of genetic resources on the deep seabed beyond the limits of national jurisdiction. The collaboration with other mechanisms on the issue of the conservation and sustainable use of coral reefs is highlighted in the box below.

67. For the implementation of the expanded programme of work on forest biological diversity, as adopted by COP 6 in 2002, the CBD has intensified its cooperation with the *United Nations Forum on Forests* (UNFF) and the Secretariat has sought collaboration with other members of the *Collaborative Partner-*

*ship on Forests* (CPF, see below). Within the CPF, the CBD Secretariat serves as a focal agency for forest biodiversity and traditional forest-related knowledge. The CBD Secretariat also plays an active role in the CPF's work on streamlining forest-related reporting to reduce the reporting burden on countries (see further information below under the section on forest sector programmes). COP 6 requested the CBD Executive Secretary to undertake an assessment of the relationship between the proposals for action of the Intergovernmental Panel on Forests/Intergovernmental Forum on Forests and the activities of the CBD forest work programme. In the context of reporting on the implementation of the forest work programme, COP 6 also asked the Executive Secretary to consider the need to minimise the reporting burden on Parties by taking into account reporting under the UNFF and other international mechanisms.

68. A joint work programme for the period 2001-2005 was established with the *United Nations Convention to Combat Desertification* (UNCCD), with a view to facilitate the implementation of the programme of work on dry and sub-humid lands. The joint work programme is supported by an *Ad hoc* Technical Expert Group, consisting of experts of both conventions. A core component of the programme is the facilitation of the integration of National Biodiversity Strategy and Action Plans (NBSAPs) under the CBD with National Action Programmes under the UNCCD. The CBD Executive Secretary has designated a liaison officer to join the UNCCD Liaison Office in New York.

69. A particularly close cooperation has been established with the *Food and Agriculture Organization of the United Nations* (FAO). The FAO is the lead partner for the CBD work programme on agricultural biological diversity and also leading on the International Pollinator Initiative and the International Soil Biodiversity Initiative. The FAO is also a major player in the Global Strategy for Plant Conservation (GSPC, see below). The CBD is working with the FAO Commission on Genetic Resources for Food and Agriculture acting as the Interim Committee for the International Treaty on Plant Genetic Resources for Food and Agriculture.

70. In addition, the CBD has a joint work programme with the *Convention on Migratory Species* (CMS), which is scheduled for 2002-2005. It aims at, *inter alia*, addressing migratory species in NBSAPs and reducing the level of redundancy and duplication between national report formats of the two conventions. The CMS has been recognised by the COP as the lead partner in conserving and sustainably using migratory species over their entire range. The CBD Clearing-House Mechanism (CHM) has received and disseminated case studies on several issues concerning the agendas of the two conventions. In addition, COP 7 of the CBD endorsed the format for the third national reports, which contains specific questions on migratory species.

71. There is a joint work plan with *CITES*, with common work areas including incentive measures for the conservation and sustainable use of components of biodiversity, the Global Strategy for Plant Conservation (GSPC) and non-timber forest resources. A Memorandum of Cooperation between the CBD and the World Heritage Centre which administers the *World Heritage Convention*, is in preparation.



72. Of major importance is also the close cooperation with the *United Nations Educational, Scientific and Cultural Organization* (UNESCO) as well as *UNEP* and the *IUCN* Commission for Education and Communication in implementing the Programme of Work for the Global Initiative on Communication, Education and Public Awareness, adopted by COP 6 in 2002.

73. Recently, CBD COP 7 in February 2004, requested the Executive Secretary to invite the secretariats of the other biodiversity-related conventions (CITES, Ramsar, CMS and World Heritage Convention) to form a liaison group to enhance coherence and cooperation in their implementation.

### ***Proposed Global Partnership on Biodiversity***

74. COP 6 in 2002 adopted the Strategic Plan of the CBD, containing the ambitious target of achieving, 'by 2010, a significant reduction of the current rate of biodiversity loss at the global, regional and national level'. In light of this target, the CBD Open-ended Inter-Sessional Meeting on the Multi-Year Programme of Work of the Conference of the Parties up to 2010, in March 2003, recommended that the Conference of the Parties, at its seventh meeting, request the Executive Secretary to develop a global partnership on biodiversity comprising the major biodiversity-related organisations, with the Secretariat of the Convention facilitating the process in order to enhance synergies, avoid duplication of efforts and improve implementation of biodiversity-related agreements. COP 7 in February 2004, accordingly, requested the Executive Secretary to examine options for a flexible framework between all relevant actors, such as a global partnership on biodiversity, in order to enhance implementation through improved cooperation. There is a number of models for such a partnership, including the Collaborative Partnership on Forests, the Global Partnership for Plant Conservation, and 'type II' partnerships discussed by the World Summit on Sustainable Development.

## **Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)**

### ***Cooperation with other conventions and mechanisms***

75. CITES Resolution Conf. 10.4 called upon the secretariat of CITES and the CBD to coordinate their programme activities particularly through the UNEP coordination meetings and suggested that Parties, as appropriate to their national circumstances and to encourage synergy, take measures to achieve coordination and reduce duplication of activities between their national authorities for each Convention. A joint work plan has been agreed with the CBD.

76. CITES invited the CBD to participate in the CITES Bushmeat Working Group, and CITES participated in the CBD liaison group on non-timber forest resources, contributing expertise particularly on bushmeat. CITES also participated in the elaboration of proposals for the application of ways and means to remove or mitigate perverse incentives at the CBD workshop on incentive measures in June 2003, while inviting the CBD to participate in the CITES technical workshop on economic incentives and wildlife trade policy. CITES also contributed to the development of the CBD Addis Ababa Principles and Guidelines for the Sustainable Use of Biodiversity. In addition, CITES is a significant partner for the

Global Strategy for Plant Conservation (GSPC, see below), which the CBD adopted at its 6<sup>th</sup> Conference of the Parties in 2002, particularly for target 11 ('No species of wild flora endangered by international trade').

77. Currently, *Memoranda of Understanding* with UNEP and with FAO are in preparation, as well as a *joint work programme* with CMS, building on the Memorandum of Understanding between the two conventions. Further cooperation with the Convention on Wetlands is under preparation.

78. Close cooperation exists between CITES, the Montreal Protocol and the Basel Convention, forming a '*trade cluster*' of MEAs. These agreements have concluded a Memorandum of Understanding on combating illegal trade and have participated in a series of regional capacity-building workshops for port enforcement officers. They have also worked, together with UNEP's Environment and Trade Branch, to develop a more coordinated approach to and position on environment and trade<sup>11</sup>.

79. Recalling the determination of the Contracting States that international cooperation is essential for the protection of certain species of wild fauna and flora against over-exploitation through international trade, CITES resolution 11.4 called for further strengthening the collaboration with the International Whaling Commission and the International Convention for the Regulation of Whaling regarding the conservation of cetaceans and the trade with cetacean specimens. Resolutions 12.4 and 12.57 to 12.59 established a strengthened relationship with the Commission for the Conservation of Antarctic Marine Living Resources regarding the trade in toothfish.

80. In addition, CITES has been involved in the development of guidance for planners on the harmonization of biodiversity legislation and has contributed to the UNEP guidelines and manual on compliance with and enforcement of MEAs.

### ***Strategic Vision: Provisions on synergies***

81. The Convention, at COP 11 in 2000, adopted the *Strategic Vision* through 2005. It provides for a close working relationship with UNEP and close cooperation and synergies with related conventions and agreements. The CBD is named specifically when the Strategic Vision recognises that 'the missions of CBD and CITES are closely related, thus necessitating a high degree of cooperation and synergy'.

82. The Strategic Vision is accompanied by an *Action Plan*, outlining action points for each objective. Relevant action points include:

- Develop a mechanism to ensure transfer and exchange of information between CITES and relevant conventions, agreements and associations for species of concern.

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<sup>11</sup> See also the GreenCustoms Project below.

- Consider the criteria and decisions of other conventions, agreements and associations when considering the proposals to amend the appendices, draft resolutions and decisions.
- Encourage other conventions, agreements and associations, when making their decisions, to consider the criteria designed and decisions made by CITES Parties.

## Conclusions and recommendations

### Conclusions

83. A number of *conclusions* can be drawn from the overview of existing initiatives in synergies and cooperation.

84. There has been a wide range of activities promoting synergies and cooperation between multilateral environmental agreements and related instruments over the last years. These initiatives are not restricted to the instruments themselves; many are carried out by United Nations agencies, other intergovernmental organisations, including donor agencies, by academic research and non-governmental organisations.

85. Synergies and harmonization efforts have received strong support from UNEP, particularly through a range of Governing Council decisions, but also in practical terms, such as the organisation of meetings of the MEA secretariats.

86. Another significant force for synergies and cooperation has been the United Nations University, through the Inter-linkages project, including research, publications, conferences and case studies in a wide range of countries.

87. The endorsement by the World Summit on Sustainable Development (WSSD) has provided further momentum to the initiatives regarding synergies, cooperation and harmonization, which is particularly important in light of the 2010 target of significantly reducing the rate of biodiversity loss, as endorsed by the WSSD, and in the light of the Millennium Development Goal 7.

88. A wide range of relevant activities has been undertaken by the MEAs. They relate to decisions by the Conferences of the Parties (COPs), the institutional level, scientific cooperation, and support to the national level.

89. On the institutional level, many Memoranda of Understanding/Cooperation have been agreed between biodiversity-related conventions and other mechanisms, and several joint work plans have been established. The latter are often targeted to the secretariats' activities but many also extend to COPs, scientific bodies and the Parties. The joint liaison group of CBD, UNFCCC and UNCCD provides a first experience of its kind.

90. Several conventions focus strongly on harmonization activities in their Strategic Plans.

91. The scientific bodies of many MEAs have established mechanisms of cooperation, such as presentations of other conventions at the respective meetings. Some conventions also cooperate on specific scientific projects and through the Millennium Ecosystem Assessment.

92. Recently, there has been a stronger focus of supporting harmonisation and synergies on the national level. Examples include the UNCCD-steered National Synergies Workshops as well as the GreenCustoms project, which involves a range of partners. Beyond the scope of this report is a closer look at national, country-driven projects, but it is worth pointing out that several Parties to conventions are gaining experience in this regard, with Burkina Faso's joint implementation strategy for the three Rio Conventions being a specifically useful example.

93. Information management and national reporting to conventions have become strong cases for harmonization efforts. The UNEP-led national pilot projects on harmonising reporting that have just been finished have pointed out obstacles and options. The CMS is embarking on an Information Management System that takes the information of other conventions and institutions into account.

94. In summarising, a wide range of activities has been developed in support of synergies and cooperation between MEAs, and a lot of relevant experience has been gained over the past years. The level of inter-linkage differs between the MEAs, with several conventions having progressed substantially in some areas such as joint work programmes, liaison groups and harmonizing information systems. Most of these efforts have focused on the institutional level, enhancing policy coherence between the conventions. There is a need to direct more resources on synergies and cooperation on the implementation level, which is primarily the national level.

95. This report has attempted to show the existing experience and expertise from which recommendations for future work can be drawn. These are outlined below. The report would have fulfilled its purpose if it helps relevant decision-makers and staff to increase and focus their activities. There is a lot to gain, in particular in terms of avoiding the duplication of efforts, the saving of resources, and the improvement of activities to achieve implementation of the individual agreements.

## Recommendations

96. *The following recommendations aim to suggest options for further action to promote synergies, cooperation and harmonization.. It is important to recognise, however, that the identification and implementation of synergies is a process that needs to be implemented in accordance to the identified needs, work programmes and priorities as well as the ongoing processes and available resources of each MEA. In this sense, it is for each multilateral environmental agreement to identify the best way forward for its own constituency. Many of the following recommendations do not apply to all MEAs – one size does not fit all. In addition, many of the recommendations, if implemented, would require the commitment of - often substantial – resources, which may not be readily available.*

### *Convene regular meetings*

97. Joint liaison groups where the secretariats of related conventions meet on a regular basis have proven useful in the case of the Rio Conventions and could be considered by other clusters of MEAs. CBD COP 7 has recently provided a mandate for such a liaison group between the biodiversity-related conventions.

### *Establish links between information management systems*

98. Links between information management systems between MEAs could be particularly supportive to the national implementation. These links could be established around themes such as, for example, species or sites, with links to a range of specific information systems held by agencies and organisations. Traditional knowledge could play a major role. Links to relevant websites of other conventions and mechanisms could be extremely useful, for example to the CBD Clearing-House Mechanism, which encompasses a wide range of information and offers a number of search options. Joint websites such as the existing one of the biodiversity-related conventions could be further explored and strengthened.

### *Harmonize terminology and classification*

99. Important support for improved access to and usefulness of information would result from the development and/or sharing of common glossaries, lists of abbreviations, definitions and terminology, and the possible future adoption of cross-convention standards. For example, taxonomic synonymy for taxa protected by different MEAs would enable improved identification of, and exchange of information.

### *Share case studies and best practices*

100. Within the files and archives of MEAs are the valuable results of case studies, research projects and successful (and unsuccessful) practices related to a wide range of issues including legislative provision, policy development, and applied aspects. A number of tools are now available to make this valuable experience more accessible. Some of these case studies are already available through individual MEA websites, but not necessarily in a consistent or coordinated manner. The suggestion is to take steps to develop a 'Best Practices Library' shared between several MEAs that provides a collection of relevant, exemplary case studies and lessons indexed and easily accessible.

*Develop thematic partnerships*

101. Partnerships between MEAs and other institutions have proven successful in many cases. They provide for increased collaboration between the partner institutions and help build their capacity. Such partnerships around shared areas of concern – such as forest ecosystems and agroforestry in the case of several MEAs and collaboration among members of the Collaborative Partnership on Forests - should be encouraged and funds for their joint activities should be made available.

*Enhance cooperation of subsidiary scientific and technical bodies*

102. For certain MEAs, it has become standard practice to invite representatives of each other to their subsidiary scientific and/or technical bodies and to cooperate actively in each other's elaborations and discussions. It would be beneficial if options for such invitations as well as for regular discussions and meetings between the chairs of these bodies could be systematically explored by all relevant MEAs, to enhance the cooperation in scientific and technical matters.

*Develop a modular approach to implementation of MEAs*

103. The national implementation of a number of MEAs relates to common topics and themes. A 'modular' approach would identify and group the implementation requirements of relevant conventions along specific topics. For example, information on site-based approaches to conservation of biological diversity could be held in one place and being made available for the implementation of as well as reporting to a range of conventions and mechanisms. The modular approach has been recognised as a significant option and should be further developed.

*Strengthen cross-sectoral harmonization initiatives*

104. Of particular value are initiatives to develop synergies and harmonized approaches across sectors, for example the linkages between the ozone and the climate regimes; or between the biodiversity-related conventions and the regional seas conventions and programmes. Such collaborative efforts need not be restricted to the convention secretariats, but could include concrete initiatives such as the GreenCustoms project. A careful analysis for each convention of options in this regard, including joint work programmes and liaison groups, is beyond the scope of this study but would be worthwhile to undertake.

*Further promote the harmonization of reporting to MEAs*

105. National reporting to MEAs, in particular the biodiversity-related conventions, has become a major area for discussing and testing harmonized approaches and could be developed further. The UNEP-funded national pilot projects on harmonization of information management and reporting for biodiversity-related treaties have resulted in the following key recommendations:

- The Conferences of the Parties to the biodiversity-related conventions might give consideration to reviewing the reporting timetables with a view to more harmonized scheduling, which would in particular benefit Small Island Development States and other countries with small infrastructures.
- Harmonizing the structure and questions in national reporting formats with the aim of producing a framework which could accommodate the reporting to most of the conventions could facilitate the reporting process and remove the financial and human resources burden on many countries.
- The development of a consolidated Biodiversity Reporting Manual, detailing the reporting requirements, could be considered.
- A regional approach to harmonizing national reporting could be explored, providing support from the regional level to national governments.
- National Coordination Units and national biodiversity databases/clearing-house mechanisms could facilitate the streamlining of reporting to the conventions, using on-line reporting to strengthen the participation of stakeholders.
- Linking the reporting to the biodiversity-related conventions with the reporting on the State of the Environment could be considered.
- The modular approach to reporting and the consolidated reporting, as tested by the pilot projects, could be tested in a wider range of countries.

In addition, the information provided by national reports constitutes a major source for the development and implementation of conventions and mechanisms. For this purpose, the cycle of analysing this information, feeding it back to the convention processes and making use of it is most significant.

#### *Further develop harmonization between site-based agreements*

106. The collaboration between site-based agreements could be further enhanced through a number of activities:

- Joined standard data forms for the designation and/or description of sites, using, as appropriate, the same definitions and criteria, could be developed for a number of site-based conventions and instruments, allowing for an easier sharing of information and better access to relevant information for third parties.
- Opportunities for multiple designations, under more than one agreement, could lead to more collaborative action, in particular for threatened sites and regarding the attraction of funding. For example, a Wetland of International Importance or a World Heritage Site could be protected as core area within a larger Biosphere Reserve.
- Joint missions to threatened sites, based on shared information, could involve more than two agreements, including, for example, the CMS and its agreements in cases where migratory species are involved.



- Joint site-based activities as already envisaged by a few conventions could be developed for other conventions and provide case studies for on-the-ground cooperation. Such demonstration projects could develop lessons on how synergies between agreements manifest themselves on the national and local level.
- The implementation of the site-based agreements could be integrated in the national biodiversity policies, particularly the National Biodiversity Strategies and Action Plans.

*Focus on the provision of synergies at the national level*

107. Ultimately, MEAs are as successful as their national implementation. Efforts for synergies and streamlining should therefore get an increased focus on the national level, and global and regional MEAs as well as UN agencies and donors should continue to provide support to governments in this respect. A number of areas where national synergies and cooperation efforts have begun to show their value have recently emerged:

- All relevant actors, especially staff in the relevant ministries, need adequate capacity, particularly in terms of relevant information and resources. This includes the full participation of national delegations on the regional and global level, especially for developing countries.
- National and regional synergies workshops might provide for a first approach to developing synergies and linkages and discuss the benefits of a streamlined and harmonized approach to the implementation of MEAs. Experiences in this regard, for example from the National Synergies Workshops undertaken by the UNCCD, should be gathered and analysed.
- The National Focal Points for different MEAs and related mechanisms in one country could enter into a regular exchange of information and discussion of areas of common interest. At its highest level, these meetings could discuss policy and issues, e.g. in the context of national sustainable development, ahead of meetings of the Conferences of the Parties to ensure an integrated approach and to avoid non-coordinated positions at COPs. These coordination meetings could also ensure a more integrated approach to reporting.
- A step further would be the establishment of a national conventions coordination office within government, in charge of a specific set of conventions, such as the three Rio Conventions. It would need to have the necessary authority and budgets to ensure action can take place. Such a mechanism could, amongst others, facilitate increased coordination in preparation and delivery of reports at the national level.
- Shared information management facilities such as databases would further enhance a streamlined approach to national MEA implementation.
- Development of a common approach to implementation of international conventions within a country, including working to a single integrated programme or strategy, might be seen as a goal for national harmonization efforts. This approach could be combined with any of the above-mentioned mechanisms, and would clearly lead to greater integration at the national and also the international level.

*Continue UNEP's role*

108. UNEP should continue its supporting role to MEAs and countries through facilitating and promoting the consolidation of existing activities and expansion into new areas, not least in the light of the 2010 target of significantly reducing the rate of biodiversity loss. There is strong potential for UNEP to work much more closely with MEA secretariats to implement many of the recommendations identified here. The coordination meetings of convention secretariats, convened by UNEP, should continue on a regular basis. Furthermore, it is important that UNEP is in a position to identify new resources for activities related to synergies and harmonization, in particular for workshops and pilot projects, including case studies, as well as making relevant information available.

*Continue UNU's role*

109. The United Nations University has been playing a significant role in promoting synergies and harmonization. The UNU Inter-linkages project has produced a range of research studies, has held a global conference as well as regional conferences and workshops, and undertaken case studies in a range of Asian and Pacific countries. This role could continue and probably be expanded to other regions.

*Develop a joint work programme on synergies between UNEP and UNU*

110. Given the substantial amount of work that both, UNEP and UNU, have undertaken to promote synergies between MEAs, an additional option would be a joint work programme on MEA synergies and harmonization between UNEP and UNU, with a view to extend this collaboration to further agencies.

*Integrate synergies and harmonization into donor priorities*

111. Development cooperation agencies and other donors could support developing countries' efforts to integrate responses to global environmental threats such as biodiversity loss, climate change, and desertification, into their national poverty reduction and other development plans in a synergistic way

*Potential next steps*

112. To further discuss the conclusions from the existing efforts in synergy, cooperation and harmonization, a workshop or an electronic consultation could be arranged between the MEAs and relevant agencies. This consultation could agree on practical further steps to promote synergies.

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## List of acronyms and abbreviations

AEWA	African-Eurasian Migratory Waterbirds Agreement
ASEAN	Association of Southeast Asian Nations
BGCI	Botanic Gardens Conservation International
CBD	Convention on Biological Diversity
CCD	see UNCCD
CEB	United Nations System Chief Executives Board for Coordination
CHM	Clearing-House Mechanism
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
CMS	Convention on Migratory Species
COP	Conference of the Parties
CPF	Collaborative Partnership on Forests
CRU	Coral Reef Unit
CSD	Commission on Sustainable Development
DAC	Development Assistance Committee
EC	European Community
EC CHM	European Community Clearing-House Mechanism
ECNC	European Centre for Nature Conservation
EEA	European Environment Agency
EEIS	European Environment Information System
EIONET	European Environment Information and Observation Network
EMG	Environmental Management Group
EU	European Union
EUNIS	European Nature Information System
FAO	Food and Agriculture Organization of the United Nations
FIELD	Foundation for International Environmental Law and Development
FLEG	Forest Law Enforcement and Governance
FRIS	Forest Restoration Information Service
GBF	Global Biodiversity Forum
GDI	Global Drylands Imperative
GEF	Global Environment Facility
GEO-3	Global Environment Outlook-3
GISP	Global Invasive Species Programme
GPA	Global Programme of Action for the Protection of the Marine Environment from Land-based Activities
GRASP	Great Apes Survival Project
GSPC	Global Strategy for Plant Conservation
HLCP	High-Level Committee on Programmes
IAEA	International Atomic Energy Agency
IAIA	International Association for Impact Assessment
ICRAN	International Coral Reef Action Network
ICRI	International Coral Reef Initiative
IFCS	Intergovernmental Forum on Chemical Safety

IFF	Intergovernmental Forum on Forests
IIED	International Institute for Environment and Development
IISD	International Institute for Sustainable Development
IMG	Issue Management Group
IMO	International Maritime Organization
IMPAC	International Marine Project Activities Centre
IOC	Intergovernmental Oceanographic Commission
IOMC	Inter-Organization Programme for the Sound Management of Chemicals
IPCC	Intergovernmental Panel on Climate Change
IPF	Intergovernmental Panel on Forests
ITTO	International Tropical Timber Organization
IUCN	The World Conservation Union
IWC	International Whaling Commission
LADA	Land Degradation Assessment in Drylands
MA	Millennium Ecosystem Assessment
MAB	Man and the Biosphere Programme
MDG	Millennium Development Goals
MEA	Multilateral Environmental Agreement
MMAP	Marine Mammal Action Plan
MOC	Memorandum of Cooperation
MOP	Meeting of the Parties
MOU	Memorandum of Understanding
NBSAP	National Biodiversity Strategy and Action Plan
NCSA	National Capacity Self Assessments
NEPAD	New Partnership for Africa's Development
NGO	Non-governmental organisation
OECD	Organisation for Economic Co-operation and Development
PEBLDS	Pan-European Biodiversity and Landscape Diversity Strategy
POPs	Persistent Organic Pollutants
PRSP	Poverty Reduction Strategy Paper
RIIA	Royal Institute for International Affairs
ROD	Reporting Obligations Database
SADC	Southern African Development Community
SAICM	Strategic Approach to International Chemicals Management
SBI	Subsidiary Body for Implementation
SBSTA	Subsidiary Body for Scientific and Technological Advice
SBSTTA	Subsidiary Body on Scientific, Technical and Technological Advice
SGP	Small Grants Programme
SPAW	Protocol Concerning Specially Protected Areas and Wildlife
SPREP	South Pacific Regional Environment Programme
TEAP	Technology and Economic Assessment Panel
UN	United Nations
UNCCD	United Nations Convention to Combat Desertification
UNCLOS	United Nations Convention on the Law of the Sea

UNDP	United Nations Development Programme
UNECE	United Nations Economic Commission for Europe
UNEP	United Nations Environment Programme
UNEP DEC	UNEP Division of Environmental Conventions
UNEP DTIE	UNEP Division of Technology, Industry and Economics
UNEP-WCMC	UNEP World Conservation Monitoring Centre
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFCCC	United Nations Framework Convention on Climate Change
UNFF	United Nations Forum on Forests
UNU	United Nations University
WCO	World Customs Organization
WHC	Convention Concerning the Protection of the World Cultural and Natural Heritage (World Heritage Convention)
WHO	World Health Organization
WSSD	World Summit on Sustainable Development
WTO	World Trade Organization
WWF	World Wide Fund for Nature/World Wildlife Fund

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## **4.2 CITES and CBD: Potentials for Synergy, MARTIN JENKINS**

### **4.2.1 Introduction**

The Convention on Biological Diversity (CBD) and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) are two of the most important multilateral environmental agreements currently in force. They are both ultimately concerned with the same subject matter – the maintenance of biological diversity – and it may be expected therefore that their implementation should offer considerable potential for synergy. There are, however, significant differences between the two instruments, both in the formulation of the Convention texts themselves and the mechanisms for implementation as subsequently developed by the respective conferences of the parties (COPs). Any attempts to develop effective, practical synergies between the two will have to take these differences into account.

This paper describes, in brief, the salient features of CITES and the CBD, drawing attention to the areas of overlap and outlining the mechanisms for cooperation between the two conventions as they currently stand. It then discusses in more detail some of the areas of synergy identified under these existing mechanisms and some potential new areas for cooperation.<sup>1</sup>

### **4.2.2 CITES**

CITES entered into force on 1 July 1975 and currently has 165 Parties, including the USA. All member States of the EU (including the 10 new members) are Parties and the Convention is enforced under EU legislation; however, the European Community (EC) itself cannot become a member until the 1983 Gaborone amendment, allowing membership of regional economic integration organisations comes into force.

The text of CITES does not contain a specific statement of objective or objectives. Its preamble indicates that its purpose is to prevent the over-exploitation through international trade of certain species of wild fauna and flora. This is re-cast slightly as the purpose of the Strategic Vision of the Convention through 2005, adopted at the eleventh meeting of the Conference of the Parties (CITES COP11), which is given as:

“to ensure that no species of wild fauna or flora becomes or remains subject to unsustainable exploitation because of international trade”.

### **4.2.3 The Convention itself**

- Is rule-based and uses modifiable lists of taxa (its appendices) as its primary basis for action.
- Is implemented through regulation of international trade.

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<sup>1</sup> The current version of this paper has benefited from comments from Marceil Yeater, CITES Secretariat and Markus Lehmann, CBD Secretariat. Errors remain the responsibility of the author.

- Deals with species and populations (though refers in Article IV to the role of the species in its ecosystems).
- Only regulates those species or populations included in its appendices.
- Is not designed to concern itself with domestic use or regulation of domestic use of wild species (other than indirectly in that these may affect non-detriment findings under Article IV).
- Operates on a voting system, with a two-thirds majority of Parties present and voting needed to carry a proposal for amendment to the appendices and a simple majority for procedural motions, including resolutions that may give substantial guidance on implementation.
- Does not expressly address incentives, although the preamble recognises the economic value of wildlife.
- Does not expressly address the financial implications of executing its provisions (other than Article VIII 2 and XI 3(a)) or provide for financial/technical assistance.
- Treats all countries as equal and therefore does not recognise any distinction between developing and developed countries, nor does it privilege range States of species in decisions concerning those species.
- Makes provision for the COP to "make whatever recommendations it deems appropriate" in the case of the provisions of the Convention not being effectively implemented by a Party or Parties, thereby laying open the possibility of international measures by, for example, recommending that Parties suspend commercial or all trade in one or more CITES-listed species with particular Parties.

#### **4.2.4 The evolution and workings of CITES**

Since coming into force, CITES has held 12 meetings of the COP, the first in 1976 and the most recent in 2002. At these meetings, the COP has adopted numerous resolutions and decisions which taken together form a substantial body of "soft law", elaborating on the provisions of the Convention itself and providing often detailed guidance on its implementation. This body of law has substantial legal force and persuasiveness.

In these, the CITES COP has, *inter alia*:

- Established expert committees with continuing intersessional responsibilities (Animals Committee, Nomenclature Committee, Plants Committee, Standing Committee).
- Received a large amount of input from non-governmental organisations, chiefly those concerned with conservation, animal welfare and trade.
- Called on Parties to assist in capacity-building in developing country Parties in their implementation of the Convention.
- Urged Parties to consult with range states on proposals to amend appendices I and II.
- Instituted the National Legislation Project to provide analysis and assistance to Parties for the enactment of legislation that adequately implements the Convention.

- Established a process to review biological and trade information on Appendix-II listed species that are considered to be significantly affected by trade and to make recommendations to ensure that Article IV<sup>2</sup> of the Convention is effectively implemented for these species.
- Established working groups on inter alia, timber, bushmeat and export quotas.
- Dealt with some specific taxa not listed in the appendices (eg. edible-nest swiftlets, sea-cucumbers and agarwood), and some issues, such as bushmeat, primarily related to domestic rather than international trade.
- Developed a number of innovative mechanisms, such as ranching and quota systems, for allowing trade in various species regarded as threatened under the Convention.
- Initiated work on guidelines for compliance with the Convention as well as wildlife trade policies and economic incentives.
- Adopted a strategic plan, entitled “Strategic Vision through 2005” with an associated action plan.

#### **4.2.5 Consideration of broader "post-Rio" issues under CITES**

A major thrust of the CITES Strategic Plan is recognition of the need for the Convention to participate fully in the wider conservation arena, and particularly to address issues that have emerged in international environmental policy following the 1992 Earth Summit. The plan itself singles out the following four as of major importance for the Convention:

- stewardship of natural resources and their use at sustainable levels;
- safeguarding of wildlife as integral to the global ecosystem on which all life depends;
- need for deeper understanding of the cultural and economic issues at play in producer and consumer countries; and
- wider involvement of civic society in the development of conservation policies and practices.

#### **4.2.6 Areas of continuing debate**

The unanimous adoption of the Convention’s Strategic Plan at CITES COP11 indicates that the Parties acknowledge the importance of these issues. Nevertheless there is a considerable amount of debate as to how the Convention should meet these challenges in practice. Some of the areas of controversy at present are:

- To what extent should the Convention deal with species not included in the appendices, and if so how?

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<sup>2</sup> Article IV of CITES obliges Parties (through their Scientific Authorities) to monitor export of specimens of species listed in Appendix II and where necessary to limit such export in order to maintain the species throughout its range at a level consistent with its role in the ecosystems in which it occurs and well above the level at which it might become eligible for inclusion in Appendix I.

- Should the Convention deal with sustainable use issues that are predominantly domestic?
- How should the Convention address the costs of its implementation in developing countries?
- How should capacity for implementation be improved in developing countries?
- To what extent should the Convention be involved in the development of positive incentives for sustainable use?
- Should the Convention address the issue of the costs of any foregone benefits from its implementation?
- How is it possible to widen stakeholder involvement in development of management plans and other mechanisms to meet the non-detriment provisions of Article IV?
- How can Scientific Authorities best deal with the need to determine a species's role in its ecosystem under Article IV?
- How should the Convention ensure mutual supportiveness between the decision-making processes of CITES and WTO?
- How should the Convention deal with major commercial commodities such as marine fisheries and timber and in particular how does its area of competence relate to other intergovernmental organizations (IGOs) such as the Food and Agriculture Organization of the United Nations (FAO) and the International Timber Trade Organization (ITTO)?

#### **4.2.7 The Convention on Biological Diversity**

The CBD entered into force on 29 Dec 1993 and currently has 188 Parties. The USA is not a Party, having signed but not ratified the Convention. The European Community (EC) is a member in its own right. All member States of the EU are also, individually, members.

The objectives of the CBD<sup>3</sup> are:

- the conservation of biological diversity;
- the sustainable use of the component of biological diversity;
- the fair and equitable sharing of the benefits arising out of the use of genetic resources.

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<sup>3</sup> CBD Article 1

#### **4.2.8 The Convention itself**

- Is not rule-based<sup>4</sup>.
- Has no lists (other than an indicative list of categories in Annex I).
- Deals with all aspects of biodiversity.
- Includes both domestic measures and international measures.
- Qualifies virtually all its substantive provisions and is therefore generally exhortatory in nature.
- Has not determined how to vote on substantive issues and therefore currently must proceed by consensus.
- Explicitly differentiates between developing country Parties and developed country Parties.
- Recognizes that countries will incur costs in implementing the provisions of the Convention and makes provision through a financial mechanism for transfer of resources from developed to developing country Parties to meet these.
- Makes no provision for international action in the case of lack of effective implementation but does note that the COP shall examine the issue of [international] liability and redress.
- Makes provision for a Subsidiary Body on Scientific, Technical and Technological Advice.

#### **4.2.9 The evolution and workings of the CBD**

The CBD has to date held seven ordinary meetings of the COP and one extraordinary meeting (the latter, which was held in two parts, to adopt the Cartagena protocol on biosafety). These meetings follow a rolling agenda, with each focusing on a different, limited set of substantive issues as well as a number of standing items. At these meetings, the COP has:

- Evolved into a policy-making body with a very broad agenda.
- Adopted the ecosystem approach as the primary focus for actions to be taken under the Convention.
- Developed work programmes based on five biomes (forests, drylands, inland waters, marine and coastal ecosystems and agricultural biological diversity) and a number of cross-cutting issues including access to genetic resources, indicators, taxonomy, public education and awareness, sustainable use, incentive measures and alien invasive species. For a number of these it has adopted non-binding guiding principles or other forms of guidance.
- Negotiated the Cartagena Protocol on biosafety, which entered into force on 11 September 2003 and which currently has 90 Parties.

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<sup>4</sup> The Cartagena Protocol on Biosafety, negotiated under the Convention and in force since 11 September 2003, does contain rules, and the possible development of an international regime on access and benefit-sharing is currently being considered under the Convention (see below)

- Given considerable prominence to Article 8(j) (knowledge, innovations and practices of local and indigenous communities) in its deliberations.
- Stressed capacity-building in almost all its substantive decisions.
- Consistently emphasises cooperation with other bodies, and particularly the other biodiversity-related conventions and the Rio Conventions and other agreements, as the main focus of attempts to broaden the range of actors involved in implementing the Convention.
- Has received relatively little input from conservation or animal welfare NGOs and more, though still fairly limited, input from NGOs concerned with rights of indigenous peoples and development issues.
- Has evolved a clearing-house mechanism that is principally an electronic (web-based) means of sharing information.
- Has determined that the Global Environment Facility should be the institution operating the financial mechanism on an interim basis.<sup>5</sup>
- Has developed a range of intersessional working groups and committees.
- Has adopted a Global Strategy for Plant Conservation with explicit, quantitative targets.
- Has adopted (at COP6) a strategic plan whose declared mission is: “Parties commit themselves to a more effective and coherent implementation of the three objectives of the Convention, to achieve by 2010 a significant reduction of the current rate of biodiversity loss at the global, regional and national level as a contribution to poverty alleviation and to the benefit of all life on earth”.
- Adopted a framework, including indicators and targets, for evaluating progress in implementing the strategic plan.

#### **4.2.10 Areas of debate under the CBD**

Unsurprisingly, given the extremely wide-reaching and disparate nature of the CBD’s objectives, the broad and not always completely consistent nature of its provisions, and the wide range of perspectives of those involved in its implementation, there are many unresolved tensions and conflicts within the CBD. Two major areas of debate are:

- The relative balance that should be struck between the three objectives of the convention: is it primarily a conservation instrument, or is it aimed at redressing at international level inequities, both historic and present, in the economic benefits derived from the use of living natural resources?
- The extent to which the Convention might move towards establishing any compliance regime. To date the Parties to the CBD have resisted adoption of any measures that might hint at this, including the adoption of lists of any kind (eg. threatened species, important areas for biodiversity; processes

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<sup>5</sup> The financial mechanism is for the provision of financial resources to developing country Parties on a grant or concessional basis as envisaged in Article 21 of the Convention.

and categories of activity that might adversely affect biodiversity) and of indicators that might be used to compare or rank Parties.

- The relative roles of positive incentives and removal of perverse or negative incentives in meeting the objectives of the Convention.

Other important areas of debate and uncertainty include the relationship between the CBD and other major international agreements, most importantly the World Trade Organization (WTO) and the World Intellectual Property Organization (WIPO) (particularly with the TRIPs agreement<sup>6</sup>).

#### **4.2.11 Cooperation and synergy between the two conventions**

The objective of CITES as stated in its current strategic plan is clearly complementary to the first two objectives of the CBD. It seems clear therefore that synergy between the two implementing processes should be encouraged and promoted to the extent that it helps Parties to both conventions meet these objectives.

Because CITES is concerned with the regulation of international trade in species that are used, the clearest areas of overlap and potential synergy are likely to be with the CBD's consideration of sustainable use. Implementation of CITES may also contribute to meeting Parties' obligations under Articles 8 (*in-situ* conservation) and 9 (*ex-situ* conservation) of the CBD and, in the wider context, under Article 11 (incentives), discussed further below.

#### **4.2.12 Forms of synergy**

Synergy and cooperation can be achieved through any of the following:

- At the national level.
- At the secretariat level.
- Through other institutional mechanisms of each Convention.
- Through the harmonising of decisions.
- Through the use by one Convention of products and processes established under the other.

National-level cooperation is the responsibility of individual Parties themselves and requires no external mandate although Parties may, of course, take heed of advice given to them by the Convention COPs. In contrast, because of the governance structure of the Conventions active cooperation that involves their institutional mechanisms must be mandated, in principle at least, by the COPs of both. The following sections outline references to cooperation and synergy in decisions and other documents approved or adopted by the COPs of each Convention. These will form the basis for any further developments.

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<sup>6</sup> TRIPS: Trade-related Aspects of Intellectual Property Rights



#### **4.2.13 References to CBD in CITES decisions, resolutions, the strategic plan and the work-plan for the 2001-2002 biennium**

CITES resolution Conf. 10.4<sup>7</sup> is devoted to cooperation and synergy with the Convention on Biological diversity. This resolution:

- calls upon the CITES Secretariat and the Secretariat of the Convention on Biological Diversity to coordinate their programme activities particularly through the UNEP coordination meetings;
- suggests that Parties, as appropriate, take measures to achieve coordination and reduce duplication of activities between their national authorities for each Convention;
- calls upon Parties to explore opportunities for obtaining funding through the Global Environment Facility for relevant projects, including multilateral projects, which fulfil the eligibility criteria and guidance provided by the COP of the CBD to the GEF;
- recommends that the CITES Secretariat investigate opportunities whereby CITES can become a partner in the implementation of appropriate provisions of the Convention on Biological Diversity;
- invited CBD COP4 to consider further modalities for enhancing cooperation and synergy between the two Conventions;
- and directed the Chairman of the Standing Committee to transmit to the COP of the CBD this and other relevant Resolutions and Decisions adopted at the 10th and all future meetings of the Conference of the Parties.

The Strategic Vision through 2005, adopted by CITES COP 11 had as Goal 5 to “Increase cooperation and conclude strategic alliances with international stakeholders”. This noted that “numerous linkages [ ] exist between the aims of CITES and those of other multilateral environmental agreements. Specifically, the missions of CBD and CITES are closely related, thus necessitating a high degree of cooperation and synergy.”

Objective 5.1 of the strategic vision is “To ensure an optimal working relationship with UNEP, as well as close coordination and synergy with CBD and other relevant multilateral environmental agreements”. This is to be achieved through the action plan by: Parties enhancing national liaison between CITES and national MEA focal points; Parties and the Secretariat enhancing regional and international liaison between CITES and MEA focal points; Parties and the Secretariat developing and implementing joint projects with other MEAs (e.g. capacity building, trade controls, enforcement, scientific and technical coordination, project development and implementation).

The work-plan for the CITES Secretariat for the biennium 2001-2002, as presented to the 45th meeting of the Standing Committee, held in June 2001<sup>8</sup>, contained explicit reference to the CBD in five areas:

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<sup>7</sup> The number before the decimal point indicates which meeting of the COP the resolution was made at.

<sup>8</sup> See CITES document SC45 7.1 (and annexes)

trade in alien species, where it was noted that the Parties should consider the opportunities for synergy between CITES and the CBD and explore appropriate cooperation and collaboration between the two conventions on the issue of introductions of alien (invasive) species (responding to Decision 11.64).

- trade in time-sensitive research samples, where any deliberations and decisions should have been made in close consultation with the Secretariat of the CBD, to guarantee consistency with the provisions of that Convention (responding to Decisions 11.87, 11.88 and 11.105);
- financing of the conservation of species of wild fauna and flora, where the Secretariat, in cooperation with the Secretariat of the CBD, shall approach the Secretariat of the GEF to determine which projects for the sustainable management of species of wild fauna and flora included in the appendices of CITES are eligible for financing from GEF (responding to Decision 11.129);
- establishment of a working group to examine bushmeat as a trade and wildlife management issue, where the Secretariat shall invite, among others, the Secretariat of the CBD to participate in the working group (responding to Decision 11.166)
- implementation of resolution Conf. 10.4.

#### **4.2.14 References to CITES in CBD decisions**

A significant number of decisions made by CBD COPs make explicit reference to CITES (see Annex). In addition a very large number of other decisions call upon the executive secretary (or some other part of the institutional mechanism) of the CBD to cooperate with other, unspecified, relevant processes in the implementation of decisions. These decisions may be taken as applying to CITES where relevant.

Subjects covered by these include: cooperation between CBD and other processes (Decisions III/21, VI/20, VII/26); sustainable use (Decision VI/13); incentive measures (Decision VI/15); environmental impact assessment (Decision VI/7); alien species (Decision V/8, decision in COP7/L/18); global strategy for plant conservation (VI/9); Article 8(j) (knowledge innovation and practices of local and indigenous peoples) (Decision VI/10, VII/16; the Global Taxonomy Initiative (Decision VI/8); access and benefit sharing (decision in COP7/L/28); protected areas (VII/28); forest biological diversity (Decisions V/4 and VI/22); marine and coastal biodiversity (Decision V/3); biodiversity of dry and subhumid lands (Decision V/23); mountain biological diversity (VII/27); inland water biological diversity (VII/4).

In almost all these, reference to CITES is merely as one of a number of potential collaborators or sources of information. In very few is there a specific request for action to be undertaken, although in the most recent decision on collaboration (VII/26), the CBD Executive Secretary is requested to invite the secretariats of the four biodiversity conventions (CITES, Ramsar, CMS and World Heritage Convention ) to form a liaison group to enhance coherence and cooperation in their implementation, and to report on progress to CBD COP8. In some Decisions, it is not clear precisely what role collaboration with CITES would be expected to play, nor what kinds of information from CITES would be particularly useful. Reference to CITES here may give flexibility in any approaches subsequently undertaken but may reflect a lack of detailed understanding of the latter Convention.

#### **4.2.15 The Memorandum of Understanding between CITES and the CBD**

The executive secretary of the CBD has entered into memoranda of cooperation with a number of other bodies, including CITES, to provide a framework for developing institutional links and cooperation with these bodies. That with CITES was entered into in 1996, endorsed by CBD COP3 in that year (decision III/21) and welcomed by CITES COP10 (resolution Conf. 10.4). The memorandum was amended in 2001 to make provision for the development of joint work plans and to incorporate the first of these plans.

The work plan for the implementation of joint activities between CITES and CBD, included as an annex to the memorandum of cooperation, detailed the following:

1. Study of the impact of, and proposed sustainable practices for, the harvesting of non-wood forest products, including bushmeat.
2. Analysis of the possibilities for using economic incentives to promote the sustainable use of wild fauna and flora, including endangered species, and/or to reduce trade pressure on these species.
3. Study of the potential use of labelling, green certification, and other positive measures, to denote, in international markets, products derived from populations that are sustainably managed.
4. Compilation of case-studies, best practices and lessons learned, and the development of practical principles, operational guidance and associated instruments for the sustainable use of wild flora and fauna, including endangered species.
5. Cooperation in taxonomy and the assessment of threats to habitats that impact on endangered species.
6. Collaboration in the development of proposals for a global strategy for plant conservation, concerning species that are threatened by international trade.

#### **4.2.16 Current state of implementation of joint activities and recommendations for further action**

The current joint work plan was agreed in January 2001. Implementation of the plan to date has been patchy. It is notable that, as discussed above, only four specific activities involving collaboration with the Secretariat of the CBD were identified in the work plan of the CITES Secretariat for the 2001-2002 biennium. Of these, only one, regarding bushmeat, is actually identified in the joint work plan under the memorandum of cooperation. However, CITES was also represented and active in the development of practical principles, operational guidance and associated instruments for sustainable use, and participated in several of the relevant workshops (see below).

In his report to CBD COP7 (UNEP/CBD/COP/7/19, paras 18-19), the Executive Secretary of the CBD reported joint action in just three areas: CITES participation in the liaison group on non-timber forest resources under the CBD (established in relation to the CBD work programme on forest biological diversity), in which it reportedly contributed expertise in particular on bush-meat; CITES Secretariat participation at a workshop on incentive measures organised by the CBD (Montreal, June 2003) and contribution to the elaboration of draft proposals for the application of ways and means to remove or mitigate perverse

incentives; and work on the Global Strategy for Plant Conservation (the subject of a second background document for this workshop).

The following section discusses possible areas of potential cooperation and synergy, outlining what actions have taken place to date and how further progress might be made.

#### **4.2.17 Bushmeat (proposed activity 1 of MoU)**

The CITES Bushmeat Working Group set up under CITES Decision 11.166 is essentially a central African regional group composed of interested range and donor States. FAO, ITTO and the CBD have been invited to participate, although to date the CBD has not been represented at meetings, of which four have been held. At CITES COP 12 the group's mandate was extended to CITES COP13. The group's work currently focuses on a case-study area comprising Cameroon, the Central African Republic, the Congo, the Democratic Republic of the Congo, Equatorial Guinea and Gabon.

The CBD has expanded its own programme on forest biological diversity recently, and has paid particular attention to non-timber forest products, including bushmeat. Under Decision VI/22 the CBD executive secretary was asked to establish a liaison group with an associated workshop to facilitate development of a joint work plan with relevant members of the Collaborative Partnership on Forests to bring harvesting of non-timber forest products (NTFP)s, with a particular focus on bush meat, to sustainable levels. This group should have a proportionate regional representation, giving special consideration to subregions where bush meat is a major issue and representation of relevant organizations such as the Convention on International Trade in Endangered Species of Wild Fauna and Flora. The mandate of this group is to:

- a) Consult in a participatory manner with key stakeholders to identify and prioritize major issues pertaining the unsustainable harvesting of non-timber forest products, particularly of bushmeat and related products;
- b) Provide advice on the development of policies, enabling legislation and strategies that promote sustainable use of, and trade in, non-timber forest products, particularly bushmeat and related products;
- c) Provide advice on appropriate alternative sustainable livelihood technologies and practices for the affected communities;
- d) Provide advice on appropriate monitoring tools.

The CITES Bushmeat Working Group was represented in this group. The work of the liaison group has been initiated through the opening an electronic forum on a restricted website from 5 to 23 September 2003, and the provision of a discussion paper prepared in collaboration with the Center for International Forestry Research (CIFOR). The results from the electronic consultations were presented to the ninth meeting of SBSTTA under the agenda item on sustainable use.

#### **4.2.18 Incentive measures (proposed activities 2 and 3 of MoU)**

CBD COP5 established a programme of work that "promotes the development and implementation of social, economic and legal incentive measures for the conservation and sustainable use of biological diversity, in

synergy with specific programmes of work.”<sup>9</sup> (CBD decision V/15). The outputs envisaged from this programme included:

- a) The assessment of representative existing incentive measures, review of case studies, identification of new opportunities for incentive measures, and dissemination of information, through the clearing-house mechanism and other means, as appropriate;
- b) The development of methods to promote information on biodiversity in consumer decisions, for example through ecolabelling, if appropriate;
- c) The assessment, as appropriate and applicable to the circumstances of Parties, of the values of biodiversity, in order to internalize better these values in public policy initiatives and private sector decisions;

CITES could clearly play a useful rôle in such a work programme, in particular in contributing to outputs (a) to (c) above.

Under (a), some of the existing schemes under CITES for allowing trade in species considered threatened under the convention, particularly ranching and quota systems, may be considered as positive incentive measures. These are in general well-documented and would serve as useful case-studies. Similarly, tagging, marking and labelling schemes under CITES have been in operation for many years (eg. labelling of vicuña cloth, of crocodilian skins and of caviar products). If the provisions of the latter Convention are being fully applied (and particularly the non-detriment findings under Article IV) these labelling schemes should be a form of *de facto* ecolabelling<sup>10</sup>. There are clearly possibilities for extending such schemes, both under CITES (that is for international trade in species included in the CITES appendices) and in areas outside the remit of that Convention (national trade and international trade in species not included in the appendices). The CBD could be encouraged to seek guidance from CITES on this matter, while the latter Convention could be encouraged to extend its marking schemes to products not currently covered, and to increase consumer awareness of such schemes.

Through its monitoring requirements, CITES has established the most comprehensive existing database on international trade in wildlife. Provided that its limitations are fully understood, this database could be of great use in assisting countries in their commercial valuation of biodiversity, as called for in the CBD work programme on incentives. The most important limitations are the absence of information on value in the database, the exclusion of information on trade in species not listed in the CITES appendices, on domestic use, and on trade between non-Parties. Within the context of the CBD work programme, the parties to CITES could be encouraged to increase the scope of information collected on trade in wildlife for their own use in valuation of biodiversity and to increase the comprehensiveness of the existing CITES trade database. Such work would, however, impose a significant additional financial burden on reporting countries and this would have to be addressed in any decision.

CITES has itself pursued the subject of economic incentives: on the basis of Decision 12.22, made at COP 12 in November 2002, the Secretariat convened a technical workshop in December 2003 on wildlife trade

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<sup>9</sup> CBD decision V/15

<sup>10</sup> although such schemes do not strictly constitute independent certification

policies and economic incentives applicable to the management of and trade in CITES-listed species, in particular in order to develop a methodology to review those policies and to make targeted recommendations on the use of those incentives. The CBD was not represented at this workshop, but assisted in the preparation of the background documentation. Recommendations from the workshop were presented to the 50th meeting of the CITES Standing Committee in March 2004.

#### **4.2.19 Sustainable use (proposed activity 4 of MoU)**

At COP7, the CBD adopted a series of principles and guidelines for the sustainable use of biological diversity (the Addis Ababa principles and guidelines), drafted at a workshop held in Addis Ababa in May 2003. This workshop had been preceded by three preparatory regional workshops held in 2001 and 2002. CITES had been represented at the three regional workshops but not at the Addis Ababa workshop. The report of the Addis Ababa workshop notes that “non-detriment standards of CITES” were used in the drafting of the principles and guidelines, although CITES is not referred to in the document adopted by CBD COP7. The decision on sustainable use made at COP7 calls on relevant actors to carry out further work to implement the principles and guidelines, and to carry out further research on a number of specific topics (see para 5 of Decision in document VII/12). A number of these are highly relevant to the non-detriment findings called for under Article IV of CITES and therefore provide good potential opportunities for cooperation.

#### **4.2.20 Global Taxonomy Initiative (proposed activity 5 of MoU)**

The COP of the CBD has attached considerable importance to the issue of taxonomy, and at CBD COP3 established a "Global Taxonomy Initiative" to help overcome the perceived “global taxonomic impediment” by strengthening national institutions (particularly in developing countries), to build links between institutions in developing and developed countries and to explore ways to make taxonomic information more readily available, in particular to countries of origin. At CBD COP3 the GEF was asked to help fund developing country Parties in implementation of the initiative.

CBD COP6 adopted a work programme on the Global Taxonomy Initiative. This contains five operational objectives, the first consisting of a taxonomic needs assessment at national, regional and global levels, the remainder comprising targeted actions aimed at: improvement of collections of biological specimens; improvement of access to taxonomic information; inclusion of taxonomic objectives in the major thematic work programmes of the Convention; include taxonomic objectives in work on the major cross-cutting issues under the Convention.

Because lists of species form the legislative basis for CITES, the latter Convention has a very strong vested interest in taxonomy and, within the international arena, unrivalled experience and expertise in practical applications of taxonomy in decision-making. This is reflected in the existence of a specific nomenclature committee and in the oversight by the Convention of checklists of species included in its appendices.

CITES therefore clearly has much to offer, and much to gain from, the Global Taxonomy Initiative although this is not well reflected in the proposed work plan, which makes only one passing reference to CITES. Moreover, CITES and the Convention on Migratory Species (CMS) have identified taxonomic issues as a key element of the joint work plan that these two Conventions are developing.

Under Annex I of the CBD, the species in the CITES appendices are clearly priorities for action (being mostly both threatened and of economic importance). Taxonomic work under CITES, notably the preparation and wider dissemination of checklists and identification manuals, particularly to countries of origin, will therefore directly help meet the objectives of the Global Taxonomy Initiative. Such activities should, if carefully targeted, be eligible for GEF or other funding under the initiative.

#### **4.2.21 Global strategy for plant conservation (proposed joint activity no 6 of MoU)**

CBD COP6 adopted a global strategy for plant conservation. Three out of 14 targets in the proposed strategy concern the sustainable use of plant diversity. One of these (Target 11: no species of wild flora subject to unsustainable exploitation because of international trade) is explicitly linked to the CITES strategic plan.<sup>11</sup> These two should therefore mutually reinforce. Notable progress is being made in this area, which is the subject of a separate paper at this workshop.

#### **4.2.22 GEF funding for CITES-related projects (response to decision 11.129 in CITES work plan)**

GEF-funded projects and programmes are country driven and respond to national priorities. As determined by Article 20 of the CBD, the GEF funds the incremental costs of these activities needed to meet global benefits. There are currently five operational programmes in the biological diversity focal area of the GEF: arid and semi-arid zone ecosystems; marine, coastal and freshwater ecosystems; forest ecosystems; mountain ecosystems; and biological diversity important for agriculture. There is also an operational programme on integrated ecosystem management, which embraces three of the focal areas (biological diversity, climate change and international waters) and a further relevant focal area, on land degradation with a single operational programme, on sustainable land management. In funding activities related to biological diversity, the GEF follows advice from the Conference of the Parties, both that contained in specific decisions addressed to the GEF and in the more general guidance issued by the Conference of the Parties.

Broadly speaking, GEF-funded projects and programmes can be divided into three categories: full projects, medium-sized projects, and enabling activities. Enabling activities are primarily concerned with capacity-building and are chiefly to allow individual countries to develop comprehensive national biodiversity strategies and action plans.

As well as normal projects, there are also short-term response measures and targeted research projects. A short-term response measure is a project that is designed to respond quickly to urgent needs or to seize a promising country-driven opportunity. A targeted research project is a research activity aimed at providing information, knowledge and tools to improve the quality and effectiveness of GEF projects and programmes. It has to be within the context of the operational programmes.

Capacity-building to improve the implementation of CITES in developing countries could be considered an enabling activity under the GEF. Because of this, such activities do not have to be tied to a specific

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<sup>11</sup> Document UNEP/CBD/SBSTTA/7/10

biodiversity operational programme. The GEF has also been mandated by the CBD COP to provide support for incentive measures (including the capacity-building necessary for their design and implementation) as a priority<sup>12</sup>. These measures should be tied to one or more GEF operational programmes. CITES could work in partnership with one or more developing countries to develop projects in these areas, for example in relation to wildlife trade policy review under CITES Decision 12.22.

#### **4.2.23 Alien species (response to decision 11.64 in CITES work plan)**

The Parties to the CBD have considered invasive alien species at length, recognising their impacts as some of the most important threats to biodiversity. In decision V/8 the CBD COP asked the Executive Secretary to cooperate with other international bodies, including CITES, with the aim of coordinating work on alien invasive species. Decision VI/23 further called on these bodies to promote the implementation of Article 8(h) of the CBD, which deals explicitly with alien species, within their mandates.

CITES COP11 also considered alien species and adopted decisions 11.64 (see p. 6 above) and 11.100; the latter directed the Animals Committee to establish cooperation with the IUCN Invasive Species Specialist Group in implementation of the document “IUCN Guidelines for the Prevention of Biodiversity Loss Due to Biological Invasion”<sup>13</sup>. There has, however, not been a great deal of activity to date under these decisions.

More generally, there is no provision for including species in the CITES appendices because they are potentially invasive or otherwise harmful as aliens, although some of the species in the appendices do, incidentally, have these characteristics (e.g. some cacti, primates and parrots). However, CITES could serve as one model, both at national level and internationally, for any legislation or binding international protocol on alien species. In the event that such a protocol were to enter into force, there would be great opportunity for coordination of administrative arrangements, again both internationally and nationally.

#### **4.2.24 Potential use of CBD clearing-house mechanism as a tool for dissemination of products outlined in the strategic vision**

The CBD COP has attached considerable importance to the development of a “clearing-house mechanism” and has consistently called on it to support the thematic and cross-cutting work programmes. The pilot phase saw its development as a mechanism for information exchange; the coming phase will see increased emphasis on its development as an active tool for technical and scientific cooperation, as called for under Article 18 of the CBD.

The guiding principles of the clearing-house mechanism are that it is to be “neutral, cost-effective, efficient, accessible, independent and transparent”. It is intended to be bottom-up, decentralized and nationally driven with a number of different types of focal points (national, regional, sub-regional and

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<sup>12</sup> CBD decisions IV/10 and IV/13

<sup>13</sup> See CITES document AC17 Doc. 20.1 for a progress report



thematic). Each focal point has responsibility for developing its own supporting network, so that the clearing-house mechanism should effectively function as a meta-system. There are currently around 150 national focal points for the mechanism. Its functioning is supported by the Secretariat in Montreal. Eligible countries receive financial support for national development of the clearing-house mechanism as part of their biodiversity enabling activities from the Global Environment Facility.

The Strategic Vision and associated action plan under CITES envisages the preparation and dissemination of a wide range of products to assist Parties in implementation of CITES. The clearing-house mechanism of the CBD could facilitate such dissemination, helping both conventions to fulfil their mandates in an efficient manner.

#### **4.2.25 National level coordination of implementation**

Each of the various environmental agreements, including CITES and the CBD, makes its own demands on its Parties in national implementation. Because many of them have been ratified and come into force at widely different times, there is often little legislative or institutional co-ordination within the country, with various focal points and principal actors widely scattered across different institutions. There is clearly scope for greatly increased coordination and streamlining.

CITES effectively calls for two national focal points, a Management Authority and a Scientific Authority, although in practice there may be more than one of the former and two or more of the latter (often one for plants and one for animals). Under the CBD a number of national focal points are called for, under various decisions or the rules of procedure. These include focal points for the Convention, for SBSTTA, for the clearing-house mechanism and for the Cartagena Protocol on biosafety. Designation of these focal points, and any harmonisation in domestic implementation of the conventions is self-evidently a national matter, although the COPs of both conventions could offer guidance in this regard. In some circumstances it might make sense, for example, that the focal point for SBSTTA be the same as the CITES Scientific Authority, particularly in developing countries where institutional capacity is often limited.

#### **4.2.26 Harmonisation of reporting**

Reporting to the various environmental agreements imposes its own, often onerous, burdens on Parties. Attempts have been made, chiefly by UNEP, to promote harmonisation of reporting, but these have met with little progress to date. CBD COP6 considered this issue and merely welcomed UNEP's work and encourages its continuation, whilst recognizing the need to ensure that this did not affect the ability of the Conference of the Parties to adjust national reporting procedures under the Convention in order to better meet the needs of Parties (decision VI/25).

Within the CBD a major effort has been undertaken to standardise and simplify its own national reporting. Under decision V/19, the CBD COP has decided that national reports shall be submitted for consideration by alternate ordinary meetings of the COP (that is every three to four years) with Parties also invited to submit detailed thematic reports on one or more specific topics before each COP (for CBD COP7, Parties were asked in decision VI/25 to submit reports on mountain ecosystems, protected areas or areas where special

measures need to be taken to conserve biological diversity, and transfer of technology and technology cooperation).

Under CITES (Article VIII, para. 7) Parties are asked to prepare annual reports summarising trade records of species in the appendices and biennial reports on legislative, regulatory and administrative measures taken to enforce the provisions of the Convention.

The annual reports of CITES are of a specific, highly technical nature. They are necessary to monitor compliance with the convention, and also provide an extremely valuable database on international wildlife trade. By their nature, it is difficult to see how these can be harmonised with the much more general reporting requirements under the CBD, nor what purpose such harmonisation would serve.

In contrast, the biennial reports under CITES are clearly relevant to implementation of the CBD, notably to various parts of CBD Articles 8 (*in-situ* conservation), 10 (sustainable use) and 11 (incentive measures). Coordination at the national level, with appropriate guidance from the two COPs, could ensure that such information need only be reported once. The draft CITES biennial report format attempts to take this into account. It should be noted, however, that the reporting timetables of the two Conventions are not in step. Because that under CITES is enshrined in the text of the Convention, this could only be harmonised by the CBD COP agreeing to report biennially, which is unlikely.

#### **4.2.27 Guidance on the rôle of the species in its ecosystems**

Under Article IV of CITES, Scientific Authorities of exporting countries are expected to monitor export of specimens of species included in Appendix II and to ensure that export of such specimens is limited in order to “maintain that species throughout its range at a level consistent with its role in the ecosystems in which it occurs”.

Interpretation of this provision under CITES has proven problematic. Because the CBD has adopted an ecosystem approach as the primary focus for actions to be taken in its implementation, it might be expected that the deliberations of the CBD could be of use to CITES.

The CBD defines an ecosystem as “a dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit.”<sup>14</sup> This definition does not specify any particular spatial unit or scale, in contrast to the Convention definition of “habitat”. Thus, the term “ecosystem” does not, necessarily, correspond to the terms “biome” or “ecological zone”, but can refer to any functioning unit at any scale. The approach adopted by the CBD COP<sup>15</sup> is based on modern techniques of integrated management. It also observes that humans are an integral part of many ecosystems, and notes that, because of the often unpredictable nature of ecosystem responses and our incomplete understanding of ecosystem functioning, application of the ecosystem approach will require adaptive management techniques. It further states that the ecosystem approach does not preclude other management and conservation

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<sup>14</sup> CBD Article 2

<sup>15</sup> CBD decision V/6, annexes A and C

approaches, such as protected areas and single-species conservation programmes, but could rather integrate all these approaches to deal with complex situations. The five specific points of operational guidance are:

- Focus on functional relationships and processes within ecosystems.
- Enhance benefit-sharing.
- Use adaptive management practices.
- Carry out management actions at the scale appropriate for the issue being addressed, with decentralization to lowest level, as appropriate.
- Ensure intersectoral cooperation. [decision V/6 Annex, C]

Such operational guidance could well be applied to the management of CITES Appendix-II listed species that are harvested for export, not only in interpretation of the rôle of a species in its ecosystems but also in widening the stakeholder involvement in management decisions.

#### **4.2.28 Development of a common policy on access to genetic resources and benefit-sharing as they relate to captive-breeding and artificial propagation both within and outside countries of origin**

The implications of the CBD's provisions on access and benefit-sharing (chiefly Article 15 but also Articles 8(j), 11, 16, 17, 18 and 19) are not yet clear, nor have mechanisms for their full implementation yet been established although a number of countries have developed, or are developing their own access legislation. To address the issue, the CBD has established an Ad Hoc Open Ended Working Group on Access and Benefit-sharing and has also adopted the (voluntary) Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of Benefits Arising out of their Utilization.

The Plan of Implementation of the World Summit on Sustainable Development called for action to “negotiate within the framework of the Convention on Biological Diversity, bearing in mind the Bonn Guidelines, an international regime to promote and safeguard the fair and equitable sharing of benefits arising out of the utilization of genetic resources”. Bearing this in mind, the ad hoc working group was mandated at CBD COP7 to elaborate and negotiate such a regime. According to the group’s terms of reference, CITES is one of the instruments to be considered in this process.<sup>16</sup>

Access provisions refer explicitly to genetic resources, defined in the CBD as “genetic material of actual or potential value”, with genetic material defined as “any material of plant, animal, microbial or other origin containing functional units of heredity”. Much national access legislation distinguishes between live organisms and genetic resources, using the latter to refer to germplasm or other genetic samples. However, live organisms, and particularly those with reproductive potential, may also be argued to be genetic material under the terms of the CBD. Article 15(7) of the CBD indicates that Parties should undertake sharing of the benefits arising from the use of these resources. Such benefits could be argued to

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<sup>16</sup> See CBD Decision VII/19

accrue from the commercial exploitation of captive-bred or artificially propagated specimens, or derivatives from such specimens when these are bred outside the country of origin.

Under CITES, in contrast, captive-bred or artificially propagated specimens of species in the Appendices are implicitly favoured, in being subject to less strict controls than wild-caught specimens (under Article VII). No distinction is made between captive-breeding or artificial propagation in countries of origin or elsewhere, nor is any provision made for transfer of benefits from commercial captive-breeding to countries of origin. The CITES COP has elaborated definitions and conditions for trade in captive-bred or artificially-propagated specimens in a number of resolutions, of which those still in force are: Conf. 8.22 (Rev.), 9.19, 10.6 (Rev.), 11.11 and 12.10. These, *inter alia*, establish registers of commercial captive-breeding operations for Appendix-I species and recognize both the potential role of captive-breeding and artificial propagation (particularly in countries of origin) in conservation and the possibility of positive incentives for captive breeding acting as disincentives for conservation of wild populations.

There is clearly a complex relationship between captive-breeding, access and benefit-sharing, incentive measures and *ex-situ* conservation which is of significance to both conventions and which would benefit from a joint approach.

#### **4.2.29 Relationship between the Conventions and the WTO**

Both CITES and the CBD have separately made a number of submissions to the Committee on Trade and Environment of the WTO<sup>17</sup>. There are clearly overlaps in the areas of competence of the three, and some of these may conceivably lead to conflict. Examples include the issue of access and benefit-sharing related to captive-breeding and artificial propagation, outlined above, which may theoretically involve all three, as well as the provision for stricter domestic measures under CITES and, perhaps, the designation of specified importers of some products under CITES, as has occurred with ivory under annotation °604. The Committee on Trade and Environment of the WTO argues that if disputes arise over a trade action taken under a particular environmental agreement then the sides should try to use that environmental agreement to settle the dispute. The disputes procedure of the WTO would only be expected to be invoked if one side were not a party to the agreement in question. This is unlikely to arise in the case of CITES, where few countries involved in international wildlife trade in significant quantity are non-Parties, nor at present under the CBD where it is unclear what provisions could be invoked in a trade dispute.

To date no action affecting trade and taken under an international agreement has been challenged in the GATT-WTO system. This does not, however, mean that such a challenge will not arise. It is at present unclear what would happen in such a case.

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<sup>17</sup> see for example WT/CTE/W/44,63,64,71,116,117,119,124,136 on [http://www.wto.org/english/tratop\\_e/envir\\_e/cte\\_docs\\_list\\_e.htm](http://www.wto.org/english/tratop_e/envir_e/cte_docs_list_e.htm)

#### 4.2.30 Conclusions and some ways ahead

Despite the existence of the MoU and clearly identified areas of common interest, progress in synergy and cooperation between CITES and the CBD at the institutional level has been distinctly limited to date. The reasons for this are themselves primarily institutional. Agendas of the secretariats and associated institutional mechanisms of both conventions are determined by the decisions of their respective COPs. The activities that can be undertaken under these agendas are in all cases limited by the resources available, both human and financial. The levels of support provided to the secretariats are themselves determined by the COPs (although some Parties make additional voluntary contributions and funding may also be obtained externally) but there is often a mismatch between the expectations of the COPs and the resources they are prepared to allocate.<sup>18</sup> This means that priorities have to be set within the institutional work programmes. To date work involving cooperation between CITES and the CBD has evidently been accorded in most cases a relatively low priority under both Convention processes – that is, most of those potentially involved would consider that they generally had more important things to do. Cooperation is further hampered by the geographical distance between the two secretariats. The possibility of maintaining a CBD officer in Geneva to liaise with CITES and other IGOs based there has been raised in the past<sup>19</sup> but no concrete action has been taken on this.

Unless a new approach is introduced, it is reasonable to assume that this relatively low rate of progress is unlikely to change in the near future. The full potential for synergy is more likely to be realised through processes less directly affected by these institutional constraints. A number of possible areas have been outlined above. Much can be achieved by improving coordination at the national level. Less directly, progress is likely to be achieved within CITES when those responsible for driving the agenda under that Convention become better acquainted with the language and *modus operandi* of the CBD. The balancing act will be to ensure that future developments under CITES are as responsive as possible to the ethos of the CBD, while still retaining the focus and normative power of CITES as it currently operates and which are, arguably, its great strength – strengths that the CBD at present singularly lacks.

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<sup>18</sup> This applies particularly to CITES, where the Secretariat's submission to the 45th Meeting of the Standing Committee on the Secretariat's workplan (doc. SC45 Doc. 7.1) noted that "a consistent theme of these submissions is the insufficiency of the allocated CITES Trust Fund budget to enable the Secretariat to carry out all the listed tasks assigned by the Conference of the Parties." In contrast, the constraints on the CBD Secretariat have at least until recently evidently been of a different character, as the core budget for the Secretariat has historically been consistently under-spent, accumulating for example a surplus (carryover) of over US\$ 5.2 million for the 2001-2002 biennium (see CBD decision V/22). As of COP 7 this surplus has been spent.

<sup>19</sup> See CBD decisions III/24 and IV/15.

**4.3 Regional Workshop on the Synergies Between the Convention on Biological Diversity and the CITES Regarding Access to Genetic Resources and Distribution of Benefits: The Role of the Certificates of Origin, MANUEL RUIZ, CARLOS FERNANDEZ, TOMME YOUNG**



**REGIONAL WORKSHOP ON THE SYNERGIES BETWEEN THE CONVENTION ON BIOLOGICAL DIVERSITY AND THE CITES REGARDING ACCESS TO GENETIC RESOURCES AND DISTRIBUTION OF BENEFITS:**

**THE ROLE OF THE CERTIFICATES OF ORIGIN**

**PRELIMINARY REPORT**

RUIZ, M.<sup>1</sup>, C. FERNÁNDEZ<sup>2</sup> AND T. YOUNG<sup>3</sup>

LIMA, PERU

17-18 NOVEMBER, 2003

Note: This report will be circulated among the participants in the Workshop and will be finalized upon receipt of their comments and suggestions. It does not yet reflect the consensus among the participants.

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## Introduction

This report presents a preliminary description of the results of the *Regional Workshop on the Synergies Between the Convention on Biological Diversity and the CITES Regarding Access to Genetic Resources and Distribution of Benefits: The Role of Certificates of Origin* organized by the IUCN's Environmental Law Centre, the National Institute of Ecology of Mexico and the Peruvian Society of Environmental Law (SPDA) in Lima, Peru on 17-18 November 2003. The organizers wish to acknowledge and thank the German Federal Ministry for Economic Cooperation and Development (BMZ) through the IUCN/BMZ "ABS Project".

The primary objective of the workshop was to analyze the relationship between CITES and the concept of access and benefit-sharing (ABS) under the CBD. CITES's experience in the administration of an export/import permit system and its approach – imposing and overseeing compliance in both exporting and importing countries – served as a basis for discussion of the practical factors relating to the development of a "Certificate of Origin" or "Certificate of Legal Provenance" of genetic resources, as an internationally recognized component of ABS. The meeting began with the idea that such a certificate if properly conceived and implemented could potentially play a positive role in the implementation of an effective and efficient manner the principles of access to genetic resources and benefit sharing in the CBD. For that purpose, the workshop convened a small group of specialists of both Convention for a day and a half meeting (see the list of participants in Annex II).

While the full report of the Workshop, along with other background papers will be available early next year; this preliminary report is presented to participants at the Ad hoc Open Ended Working Group on Access and Benefit Sharing as a contribution that may be found useful in their discussions.

## Summary of main recommendations and Research Agenda

Although somewhat constrained by time considerations, the workshop was successful in raising, discussing and reaching agreement on various issues. It suggested a number of key considerations that might help set a research and work agenda for the development of the Certificate of Origin or Legal Provenance. Some of the basic recommendations that grew out of that discussion are summarized below:

- A. Do not limit application of this concept to intellectual property rights.

The discussion on the role of the certificates of origin or legal provenance should not be restricted to the field of IPRs. Many important developments have occurred in regard to IPRs, for instance, in the legislations of Brazil, Costa Rica and the Andean Community where evidence of legal access to the genetic resources is a precondition for the processing of IPR applications. The same principle, however, could be extended to other fields, such as marketing and network development.

- B. Analyze the usefulness and application of the Certificate in the wider context of the international regime and its application to different areas.

The Bonn guidelines already incorporate specific elements on the responsibilities of providers and users of genetic resources. This recognition in the Guidelines (as well as in other Decisions by the COP of the CBD) forms part of the rationale for the development of the certificate of origin or legal provenance. The

certificate could be a central piece of the international regime on benefit sharing, in the CBD and as mandated by paragraph 40(o) of the Plan of Implementation of the WSSD.

Such an approach could be an enabling tool for a number of user-country measures, and may also be relevant and useful within provider countries. Its impact and value could extend beyond the direct ambit of the CBD. They could easily become a coordinating elements clarifying, consolidating or assisting in the development of the relationships among many forums including the CBD, WTO, WIPO and FAO, all of which will be relevant in the implementation of the Certificate.

C. Incorporate a general clause in CITES certificates and other governmentally issued instruments, to safeguard the rights over genetic resources.

There is a similar need from the other side of the CITES-CBD equation, regarding the need, at the very least, to raise awareness among CITES-oriented users regarding the limits of their rights over biological resources. One suggestion is that a disclaimer such as "... This permit does not in itself authorize the use of this materials as genetic resources or for research and development of the genetic resources within.." in all CITES permits would constitute a warning that may be a deterrent against unauthorized use of genetic material. The same type of disclaimers could be used in other components of national legislation dealing with biological resources. It will be important to implement this concept in a way that does not create inappropriate demands on CITES management authorities, and to educate them about the CITES-CBD relationship, as well.

While this kind of measures will not be the "magic bullet" solution, they contribute to the promotion of good behavior under both regimes.

D. Move beyond the Memorandum of Understanding

While the creation of a Memorandum of Understanding is not insignificant, the specific needs and impacts of ABS Regime development suggest a need for more concrete lines of collaboration between CITES and the CBD. In developing the Certificate of Origin or Legal Provenance, a more formal analysis of the workings of the CITES certificate system and its relationship to ABS issues could be a positive first step.

## **Background**

One of the central issues at the outset of the negotiations of the Convention on Biological Diversity was how to ensure that each country obtains a fair and equitable share of the benefits derived from access to genetic resources. In the end, this became one of the main objectives of the CBD. The discussions focused on the taking of genetic material from one country ("country providing the genetic resources" or "source country" which may also be a "country of origin" of the species) to be analyzed and used in another (sometimes called the "user country.") If that analysis should result in a new use or product that generates benefits (monetary and non-monetary), the CBD Parties were conscious of an equitable need to ensure that the source country would share in the benefits. The regulation of access to genetic resources and distribution of benefits in countries of origin was seen at that time as the best way to address this issue.



More than fifteen years later, the application of the CBD principles regarding access to genetic resources and the objective of “fair and equitable sharing of the benefits” is, as yet, rather limited and almost imperceptible beyond the existence of a handful of norms adopted in some (mostly developing) countries. In particular, and with the limited exception of a few provisions in documents from the CBD (such as the Bonn Guidelines), there are few advances at the international level. In particular, the countries that are primarily users of the genetic resources (i.e. industrialized countries with biotechnology industries within their jurisdiction) have done little to ensure that the uses and users within their jurisdiction comply with the provisions of the CBD.

The CBD has yet to develop a mechanism to guarantee that the flow of genetic resources across countries and institutions complies with its principles. The idea of a “Certificate of Origin (or Legal Provenance)” has emerged as a means to identify the legal origin of the resources, ensure the PIC from proper authorities within provider countries, create incentives for users to comply with access provisions, etc. If recognized internationally, the Certificates could be useful as a tool to ensure that the principles of the CBD, as well as the implementing access legislation in provider countries, is effectively complied with. Moreover, the Certificates would enable a number of complementary measures in user countries<sup>4</sup>, thereby contributing to a more balanced burden of responsibilities among countries in the implementation of the CBD.

Despite its appeal, achieving a coordinated approach at the international level for the traceability of genetic materials is not an easy task. It not only involves the commitment of the countries that provide the resources, since it requires an equal commitment from user countries. In practical terms, it will also need the global agreement and acceptance of a unified or highly integrated institutional and administrative system. These issues need to be addressed from a practical point of view.

In this context, it is unavoidable that the debate centers at least momentarily, in the way in which certificates could work for genetic resources within the CBD to trace transboundary movements as well as in the relevance that the work of the Convention on the International Trade in Endangered Species (CITES) may have. CITES has more than 30 years of experience in regulating the transboundary movement of thousands of specimens, and parts and derivatives of protected species of plant and animal. Its lists of species now include than 10,000 species. The successes of CITES’ permit and certification system include the creation of a documented record and an oversight mechanism for transboundary movements of specimens, to ensure that they comply with the norms established by the Convention.

Although some specialists and meetings have addressed the relationship between the CBD and other multilateral environmental agreements (MEAs), the specific relationship between the CBD and CITES has not been explored at depth. The recent brief, but heated, debate during the last COP of CITES stands as one of the few instances where the specific issue has been addressed.

Understanding the way in which CITES operates, with the shared but differentiated responsibility it assigns to both exporters and importers, would allow the identification of specific links between access laws and regulations on access to genetic resources and benefit sharing (in the CBD context) and the CITES mechanisms. In particular, it would inform from experience and provide relevant insights into the design of similar mechanisms that could prove useful in the CBD context. This is particularly important in order

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<sup>4</sup> We will refer repeatedly to the term user countries, implying countries with users of genetic resources within their jurisdiction.

to develop effective and efficient mechanisms for the regulation of genetic resources. At the same time, this discussion would positively contribute to the debates within CITES on the necessary conditions for trade in biological samples of species listed in its appendices.

This joint review of the issues surrounding genetic resources from the perspective of both Conventions is even more relevant given that the Conferences of the Parties of both instruments will convene during 2004 (CBD in February and CITES in November). At CBD COP-7, Parties will be taking important and long ranging decisions regarding the development of the International Regime for the Distribution of Benefits from genetic resources. Later in the year, at CITES COP-13, Parties will examine other questions relevant to collaboration with the CBD and, in general, explore means to enhance the two instruments' roles in achieving the global sustainable development goals.

## **Key Considerations**

Beyond these basic conclusions and recommendations, the workshop's fruitful discussions produced a list of key considerations relating to ABS and Certificates of Origin. This Interim Report only gives the most basic summary key considerations. A more complete discussion will be provided once all participants have a chance to comment, amend and add to this initial draft. As mentioned earlier, the full report will be ready early next year.

### **The concept of a "Certificate of Origin": an accepted and recognized idea**

Although there is still much to be clarified in terms of the legal nature, scope, essential characteristics, economic viability and practicality, among others, it is clear that the notion of a certificate or document (certificate of origin, legal provenance, etc.) is well recognized and accepted. The Certificate could provide a legally valuable statement of compliance with the requirements for legal acquisition of the genetic resources, i.e. that the implementing norms and legislation on access to genetic resources of the country of origin have been complied with. It may be seen as a means to resolve in a practical – and relatively "simple" way – the basic CBD principles. Moreover, it is appealing because its rationale rests on the principle that no one should acquire or seek to acquire rights over products or materials that were not obtained by legal or legitimate means.

### **The need for precision in the objective and purpose of the Certificate**

It is of the outmost importance to first identify the main objective or set of objectives of the Certificate of origin or legal provenance and hence, define its nature, scope, elements and characteristics as well as its implementing bodies, and its integration into the essential processes of ABS. The Certificate should not be confused with instruments that are part of the national procedures through which one can access and utilize genetic and biological materials, such as contracts, permits, authorizations and others). The certificate is simply a kind of "passport" that travels with the resources along their useful life and that can be monitored and verified at various stages of access and use as well as across various jurisdictions beyond that of the providing country that issued the certificate.

## Definition of concepts

At present, one of the main problems at the international level is how to develop a common language that allows for clear boundaries to be drawn for concepts such as “biological resource”, “genetic resource”, “access”, “derivative”, “certificate”, “origin”, “legal provenance”, “fair and equitable benefit sharing”, among others. Some of these concepts must be sufficiently clarified and agreed upon at the international level in order to develop the Certificates of origin or legal provenance since they have a bearing on the scope of a mechanism such as the Certificate. Take for instance the concepts of “access” and “derivative”, while the first one will determine the range of activities that fall under the certificate regime, the second has a bearing on the persistence of rights for the provider of the genetic resource along the process of product development.

## The use of the Certificate of Origin or Legal Provenance in Intellectual Property Rights procedures

The Certificate could potentially be a very important tool in addressing the needs of an “international regime on access”, depending on the objectives and needs of the regime. Various examples demonstrate the manner in which IPR systems may be used to avoid the granting of rights that directly or indirectly use or incorporate materials – or associated traditional knowledge – that may have been obtained illegally or illegitimately. Such examples may also deter applicants who would not qualify under these standards from seeking IPRs at all. In countries such as Brazil, Costa Rica and the Andean Community, this has taken the form of required documentation – some form of “certificate” – to show the legal provenance of the genetic materials or the traditional knowledge, prior to the granting of rights. India and Brazil have made this into a proposal before the World Trade Organization. The *Group of Like minded Megadiverse Countries* has also defined a common position on this issue.

In developed countries, Denmark now requires the disclosure of the geographical (only) origin of materials used in products and processes that are the subject of patent applications. The European directive on biotechnology also generally alludes to this idea. The plain justification lies in the principle that no rights should be granted nor obtained from illegal acts, such as the illegal acquisition of genetic materials (the so-called “Clean Hands Doctrine” as expressed in some countries’ common law.) This is equally true where the specific “certificate” required is merely a call for disclosure of geographical origin, as it is when a “proof of legal acquisition” is required.

For some experts, the point of IPR-application, as a primary checkpoint for disclosure of origin is very attractive, for one reason, because it significantly limits the number of transfers. At any of the thousands of international border areas and other points of transportation, hundreds or thousands of specimens or samples may be exchanged in any given month, only some small percentage of which are relevant to ABS. By contrast, in intellectual property we are concerned primarily with three main IP offices: the USPTO, the EPO and the Japanese, and at the time of application, the innovations using natural genetic material will be more clearly defined. Hence it will be interesting to see the use of the Certificate during the PCT searches patent applications carried out by the Search authorities. Tying the Certificate of origin or legal provenance into the work of these authorities may be a cost-effective way to administer the system given the small number of Search authorities currently recognized. Such a solution might contribute to discouraging “biopiracy”.

There is at least some basis for compatibility of this certificate concept with existing IP principles, which mandate a full disclosure of relevant information on claimed inventions. This enhances the attractiveness of tying the certificate to “check-points” in IPRs procedures, particularly since the decision to seek IPR protection is a solid indication of commercial intent. There are other types of commercial intent, however, and it will be important to consider the cases in which there may be commercial intent without IPR. The identification of complementary “check-points” outside of the realm of IP procedures and institutions also deserves further exploration.

### **Training considerations for professionals and officials managing the certification system**

The success of implementation of an international regime on access that includes the certificates of origin or legal provenance will inevitably turn on training and capacity building needs for the certificate issuing authorities, and officials at “check-points.” It will also depend on the heightened level of awareness of those institutions and individuals that participate in access activities.

Training and capacity building costs should be borne in mind in the design of the Certificate. To reduce costs it may be possible to utilize existing authorities that undertake similar functions. This is another possible area for finding synergies with the CITES system.

However, while CITES authorities responsible for issuing permits may have similar functions, they may not be able, with current authority and training, to verifying an ABS certificate of legal provenance, or even to determine when one is needed. Moreover, given the difference in mandates between CITES and ABS, it seems clear that border controls may not always be the only or the most effective “check-point”. These factors still suggest the need for training a variety of other officials, including those in patent offices.

### **Identify and develop incentives for Parties and stakeholders**

Depending on how it is incorporated into the international, regional or national ABS regimes, the certificate of origin or legal provenance could serve as an incentives – for countries to mutually cooperate and collaborate, and for individuals to comply with CBD principles and access legislations. It could be one components of a process whose clarification would serve to reduce pressures in provider countries to pass restrictive legislations on access to genetic resources.

Individual users, now faced with the uncertainty regarding the “legality or legitimacy” of their activities, might find the certificate a “positive signal” that enhances their public reputation as “good actors.” Similarly, the adoption or recognition of the Certificate by for user countries, would strongly signal their commitment to meeting their ABS obligations in the CBD.

In short, the certificate alone will not solve the various implementation challenges of ABS, but it could play a significant positive role as a signaling device and incentive.

### **Implications for ex situ collections for both conservation and research**

*Ex situ* centers for conservation and research not only house significant collections of germplasm, but need to access and transfer those materials as part of their routine operations. One aspect to consider is how the certificate system would operate for those centers. While it is true that the FAO Treaty on Plant Genetic Resources for Food and Agriculture may provide a more adequate platform for those resources, it should be considered that only a limited list of crops will be covered by the Treaty and many questions relevant to coordination between the two instruments were not addressed in the Treaty. Hence, the Certificate may be applicable to many plant genetic resources with important *ex situ* collections.

In any case, as a core principle, it is suggested that the certificate carefully analyze and specifically address its relationship with the International Treaty. The Certificates and modalities of application should not limit the exchange of materials that were obtained in accordance with CBD principles.

Beyond this, it should recognize that the activities of *ex situ* collections are conducive to the realization of CBD objectives should be promoted. However, the exchange of pre-Convention materials from *ex situ* collections should not hinder the efficacy of the certification system for other materials.

### **Means to incorporate traditional knowledge considerations in the Certificate**

While the specific components of the issue are not as well defined and their discussion is not as well advanced, the relationship of ABS and Traditional Knowledge issues is undisputed. Accordingly, it should be contemplated that certificates of origin or legal provenance, might ultimately also be used to provide evidence of compliance with national legislations and norms for the use of associated traditional knowledge. This area, too, deserves further exploration.

Of course, although, the certificate of origin or legal provenance could complement other regulatory instruments for traditional knowledge, it could certainly not replace key TK initiatives, such as the development of a *sui generis* system of protection.

### **Channeling the benefits to in situ conservation**

Neither the CBD (in the case of genetic resources), nor CITES (in the case of the captive bred species or ranching species) have been effective in channeling economic resources to *in situ* conservation. While the CITES Convention does not have a mandate to address that issue, its parties have integrated relevant concepts into key CITES documents and processes such as the CITES listing criteria and the significant trade processes. There is, of course, no doubt that benefit sharing is an explicit mandate of the CBD. At a minimum, this suggests the need for some of the economic benefits derived from ABS activities should be channeled to *in situ* conservation.

To the extent that the certificate of origin allows for more effective contracting and better monitoring of obligations, the certificate could contribute to a more effective channeling of resources to *in situ* conservation. The Costa Rican experience is an example of how effective contracting leads to more resources for *in situ* conservation. Its numerous contracts have created a precedent and send a positive signal to

interested users. A certificate system could give other countries a “shortcut” to a better contracting environment from the start.

### **Complementarity possibilities in the complex relationship between CITES and the CBD**

CITES and the CBD have somewhat different objectives, scopes and aims. However, both regulate, directly or indirectly, biological (and genetic) resources. As variously noted above, there may be many possible ways in which the conventions could complement each other.

Among other things, CITES provides an example that sheds light on the potential cost and structure of a Certificate system. At the time CITES was created, costs were not a primary concern, since that Convention’s whole purpose was to discourage an economic activity. In contrast, in the case of genetic resources, the CBD seeks to maintain the economic use of genetic resources. If the certificate is too costly (structurally, or to the parties seeking certificates), the market will suffer. Perhaps the most important recommendation of this workshop is that measures should be analyzed from a cost-benefit perspective, learning from the experience at CITES and seeking complementarities and synergies whenever possible.

## Anexo 1. Diferencias entre el régimen CITES y los posibles certificados de origen y legal procedencia.

Sin lugar a dudas que la experiencia de CITES en la administración de un sistema de certificados es de gran valor para el análisis del certificado de origen / legal procedencia para los recursos genéticos. No obstante, aunque a primera vista pareciera que los objetivos del certificado de origen / legal procedencia es muy similar al CITES, en una lectura más fina de ambos, resaltan diferencias importantes que deberán tomarse en cuenta a fin de rescatar la experiencia más relevante y pertinente de CITES. En la tabla siguiente se presenta un cuadro comparativo entre las características de los permisos CITES y los elementos que parecen más evidentes de un certificado para recursos genéticos.

Permisos o documentos CITES	Certificados de origen o legal procedencia
Objetivo central: la no extinción de especies amenazadas y la promoción del uso sustentable	Objetivo central: cumplir procedimientos de acceso (consentimiento informado previo y la justa y equitativa distribución de los beneficios derivados de los mismos)
Se aplica exclusivamente a materiales / especímenes en el comercio	Se aplica inicialmente a una muestra biológica transferida, pero continua con efectos sobre su progenie sus derivados e incluso sobre la información (incl. invenciones) derivadas de la misma
Termina con la introducción al país importador	No tiene fecha de terminación definida en cuanto a sus efectos
Cubre una sola transferencia (salvo re exportación)	Puede cubrir múltiples transferencias
Previene y mitiga impactos negativos del comercio	Promueve relaciones más justas entre proveedores y usuarios
Incluye precautoriamente “especies semejantes”	Deberá adecuarse para casos de recursos genéticos obtenidos en condiciones <i>ex situ</i>
Una agencia gubernamental determina que cumple con criterios para exportación / importación	Una agencia gubernamental evalúa si se ha cumplido con el procedimiento de acceso (verifica PIC y distribución de beneficios)
Acto regulado se inicia y termina en el comercio	Movimiento no implica acceso, regular acceso implica regular un proceso.
Oficiales de aduana como verificadores	Evaluación a nivel de oficina de patentes, aduanas, sanidad, etc.

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Solicitante conoce el valor del especimen	Solicitante no necesariamente conoce el valor del material, se habla del valor potencial
Producto homogéneo o por lo menos bien descrito	Producto muchas veces no conocido (considerense por ejemplo, las muestras biológicas codificadas o las muestras de suelo)
Requieren acciones en países usuarios y proveedores	Requieren acciones en países usuarios y proveedores



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### **IUCN – The World Conservation Union**

Founded in 1948, The World Conservation Union brings together States, government agencies and a diverse range of non-governmental organizations in a unique world partnership: over 1000 members in all, spread across some 140 countries.

As a Union, IUCN seeks to influence, encourage and assist societies throughout the world to conserve the integrity and diversity of nature and to ensure that any use of natural resources is equitable and ecologically sustainable.

The World Conservation Union builds on the strengths of its members, networks and partners to enhance their capacity and to support global alliances to safeguard natural resources at local, regional and global levels.

<p>This publication expresses the views of the author based on expert research and collaboration under the ABS project, and does not necessarily reflect the opinion or the policy of IUCN in this field.</p>
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#### **4.4 Mechanisms for Increased Collaboration in Decision Making Processes, DIETRICH JELDEN, UTE FEIT**

##### **4.4.1 Introduction**

Since the Convention on Biological Diversity (CBD) came into effect in 1992 the commercial interest for genetic resources as market commodity has grown continuously. Associated with this growing market interest the concerns of many biodiversity rich nations have grown tremendously with regard to the unregulated commercial and scientific gains produced from their genetic resources mostly collected by bio-prospectors based in foreign nations of the northern hemisphere.

With regard to the diverging interests in biodiversity rich developing countries of the southern hemisphere on one side and 'high-tech' developed biodiversity consuming nations in the north on the other side there is at least potentially enough room for conflicts. Whereas biodiversity rich nations in the south are above all interested to receive fair and equitable shares once commercial gain is made from their genetic resources the developed nations in the north are overall and primarily interested in a free access to genetic resources either for scientific or industrial research.

With the coming into force of the CBD its contracting parties have agreed to resolve under this Convention their diverging interests not only for the sake of the conservation of the worldwide biodiversity but also to ensure that if biodiversity is used that such use should only be done on a sustainable level.

Through the CBD the political position of biodiversity rich countries in the south has clearly been strengthened with regard to the conservation and utilisation of their genetic resources. Therefore it is not surprising that quite in contrast to most developed nations of the north to this date many of them in particular from the Latin American region have now also enacted national legislation to regulate the access to their national biodiversity.

The development of enacting national access legislation has so far not received the same political attention within each CBD contracting party, which in many instances might also be a contracting party to CITES. Therefore the use of the latter convention 'with real teeth' as a legal vehicle to address and resolve open or pending questions related to access and benefit sharing at least in conjunction with the international use and transfer of CITES protected specimens seemed to have some merit for the one or other contracting party to both conventions.

However using other international legal instruments such as CITES in order to advance a juridical claim on genetic resources outside the territory in question bears potentially a conflict in it by circumventing CBD rules or guidelines ('prior informed consent') through unilateral action and furthermore by creating a situation of legal uncertainty.

Recent developments within the CITES arena which not surprisingly document increasing conflict with the CBD offer ample opportunities to discuss and elaborate procedures on how closer collaboration could be achieved in order to better resolve or even avoid in the future such conflicts.

#### **4.4.2 Cases substantiating relevant CITES/CBD conflict**

More recent cases in the CITES forum which were raised or submitted for adoption during the 12th Conference of the Parties of CITES in November 2002 or even already before document well the need for a better cooperation between both Multilateral Environmental Agreements (MEAs).

##### Exemption of biological samples from CITES provisions

At the 11th Meeting of the Conference of the Parties (COP) to CITES Switzerland together with Germany and the United Kingdom had proposed an amendment to CITES Resolution Conf. 9.6 ('Trade in readily recognizable parts and derivatives') with the aim to exempt from CITES controls certain diagnostic samples for identification, research and taxonomic purposes as well as cell cultures for biomedical research (CITES COP 11; Doc. 11.45.1).

During this meeting in particular many third world countries including most megadiversity-like-minded parties such as Brazil, China or Indonesia signalled their opposition to this proposal. Main concerns raised were the lack of domestic legislation in some range states, intellectual property rights, difficulties of implementation and the need of synergy and consistency with other biodiversity-related conventions. However the general importance of the issue and the need to resolve it was acknowledged and an inter-sessional working group of the CITES Standing Committee through several CITES decisions (11.87-88; 11.103-105) mandated to resolve this issue until the 12th Conference of the Parties.

Under the mandate given to the working group parties to CITES had put strong emphasis on that any deliberations or decisions taken by it should only be made in close consultation with the Secretariat of the Convention on Biological Diversity (CBD) and that any approach decided should be compatible with the obligations of Parties to the CBD. After two consultations with the Secretariat of the CBD the CITES Secretariat on behalf of the Standing Committee submitted an amendment proposal to the relevant CITES resolution (Res. Conf. 10.2 'Rev.') with the objective to facilitate the transfer of certain identified biological samples between Parties which were considered not to pose a conservation risk (COP 12 Doc. 51).

During the discussions at the 12. CITES COP in November 2002 several interventions against the adoption of the proposal were made in particular by China, Mexico and Brazil. The concerns raised by the delegates of these countries referred to insufficient effective legislation in many countries involved in the transfer of such samples, the non-existence of bi-lateral agreements on benefit-sharing relating to the use of or the research into biological samples between countries concerned and the fact that not all Parties to CITES are also Parties to the CBD. Despite the fact that no consensus could be achieved during the discussions at the 12. CITES COP a majority vote on the proposal lead finally to the adoption of the proposal against the concerns raised by above mentioned Parties.

##### Use of CBD language in CITES export permits

Starting from the year 2000 several member states of the European Union became aware that some CITES protected species exporting States, namely from the Latin American region have now included on their CITES export permits, relating to both animals and plants, provisions referring to the issue of access

to genetic resources (BLOCH, 2001). In order to illustrate these unilaterally used clauses, one elaborate example shall be reprinted here:

“This permit does not extend to the use of biological material to access genetic information, contained in the whole or parts of plants, fungus, microorganisms or animals specimens; in substances derived from the metabolism of these living beings or from extracts obtained from live or dead specimens, occurring in situ conditions, including domestic ones, or kept in ex situ collections, if obtained in situ conditions, in national territory, the continental shelf or the exclusive economic zone, aiming at prospecting for identification of components of the genetic patrimony and/or information about associated traditional knowledge with potential commercial use.”

Since the usage of that sort of language appears to be unprecedented in the practice of Parties under the Convention but also to prevent that such unilateral and legally controversial initiatives are silently accepted in the context of international law, Denmark on behalf of the Member States of the EU raised this issue during the 12. Conference of the Parties (COP) of CITES which was recorded in the adopted proceedings of the COP (COP 12 Plen. 5 – Rev.). The EU made quite clear that it would welcome a future open discussion during any COP of the legal consequences of such clauses. However this should be preferably be done on the basis of a prior to such a COP conducted in depth analysis of the legal situation.

Although one might, from a strict legal standpoint, adopt the view that such provisions should only be assessed against the background of CITES, it appears obvious that in its core, the matter is strongly connected to Article 15 of the CBD. Since it is a generally recognized rule in the application of international law that an international instrument has to be interpreted and applied within the framework of the entire legal system prevailing at the time of interpretation, a purist, isolated view on the provisions of CITES can likely not suffice. Despite the fact that not all Parties to CITES are at the same time Parties to the CBD it thus not only appears useful, but imperative to take the relevant rules of the CBD into account when discussing the clause. This is true in particular, with a view to the legitimate interest of countries of origin of genetic resources to receive a fair and equitable share of the benefits arising out of the utilization of genetic resources.

Article 15 CBD addresses the complex issue of Access and Benefit Sharing (ABS) in connection with genetic resources. This issue was subject to extensive negotiation in the Ad Hoc Open-Ended Working Group on Access and Benefit-Sharing (CBD Decision V/26 A, para. 11, see Document UNEP/CBD/COP/5/23) which lead inter alia to the adoption of the Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of the Benefits Arising out of their Utilization at the Sixth Conference of the Parties of the CBD in April 2002 (Decision VI/ L.19).

Both Article 15 of the CBD and the Bonn Guidelines essentially call for a cooperative approach towards the issue. As Article 15 para. 4 asserts, access, where granted, shall be on mutually agreed terms and subject to this Article. The Bonn Guidelines identify now practical ways and means in more detailed terms how Article 15 can be implemented.

Against this background, the questions what potential role, if any, CITES could play at all in the implementation of an Access and Benefit-Sharing regime under the CBD and whether or not CITES documentation is the appropriate place to address the issue of Access and Benefit Sharing is not even unclear but also questionable. Currently the insertion of such clauses in CITES documents creates a situation of legal



uncertainty because such clauses might advance a juridical claim on genetic resources outside the territory in question.

Finally, a tacit acknowledgement of the use of the clause does not appear helpful for the integrity of the CITES system. Rather, an open discussion on these issues should be sought. In particular, since it appears crucial to ensure coherence and mutual supportiveness between the work done within the framework of CBD and CITES.

### Captive breeding

The registration of captive-breeding operations for CITES Appendix I species started in 1983 at the 4th Conference of the Parties (COPs) to CITES with the adoption of CITES Resolution Conf. 4.15). The Parties to the CITES decided at this meeting that all captive-breeding operations, that breed Appendix I animals for commercial purposes should be registered and that no commercial trade should be authorized unless the respective operation had been registered.

Over the years consecutive CITES COPs had made decisions to narrow the registration process with the result that until 1992 with the decisions taken at the 7th COP it had become almost impossible for any operations to become registered. Applications for registration had to be forwarded to the Conference of the Parties

At the 8th COP in 1992 the registration system was revised again and in particular more formalized. One novum which evolved with the adoption of CITES Resolution was in particular that the COP instructed the Animals Committee to examine the complex issue related to the origin of the founder breeding stock and the relationship between registered breeding operations and conservation programmes for the species concerned.

To this date no resolution to the pending problem could be found. At the 9th CITES COP Parties felt that the issue is extremely difficult and problematic. The debate on this issue continued until today and it kept on focusing on certain principles such as resource ownership, property rights, access to genetic resources and sharing of benefits derived from captive breeding.. At several stages of the discussion of this issue in the different for a of CITES Parties felt the problem would be better dealt with under the CBD.

By having adopted the adoption of the Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of the Benefits Arising out of their Utilization at the Sixth Conference of the Parties of the CBD in 2002 the current situation would be that unless no prior bilateral arrangement through prior informed consent has been made between the range state of the respective species and the captive breeding facility the ownership of the resource would end at the time of export (WIJNSTEKERS, 2001)

CITES Decision 12.78 adopted at the 12th CITES COP currently instructs the CITES Animals Committee

- a) to describe and analyse the specific problems that limit the wider use (...in the CITES context) of the registration procedure;
- b) provide recommendations to resolve these problems; and

- c) study and evaluate how commercial captive breeding of Appendix I species and the process for registration of breeding operations contributes to the conservation of Appendix I species.

In particular the latter terms of reference touch on a fundamental concern of the CBD, i.e. in situ- conservation versus ex situ captive breeding for conservation or primarily non-conservation oriented commercial purposes which if resolved would benefit both MEAs if collaboration could be intensified.

#### **4.4.3 Possible solutions (mechanisms) to resolve possible conflicts in the decision making processes and to further practical cooperation between both MEAs**

The CITES Conference of the Parties has on numerous occasions discussed the relationship between CITES and the CBD, as is reflected by Resolution Conf. 10.4, Cooperation and synergy with the Convention on Biological Diversity, recommending

“that the CITES Secretariat investigate opportunities whereby CITES can become a partner in the implementation of appropriate provisions of the Convention on Biological Diversity;”

Moreover, the CITES Action Plan adopted at the 11th Conference of the Parties highlights as Objective 5.1 the necessity of enhanced coordination and synergy with CBD and Objective 5.2 aiming at close co-operation and coordination with related conventions, agreements and associations.

One way to move a more efficient co-operation forward would be that both Secretariats based on cases of best practice investigate in a mutually agreed approach ways how such co-operations in the scope of the overall goals of both conventions could be enhanced and that they submit their conclusions on their common findings to the Conference of the Parties of both MEA's for discussion and adoption..

In particular the resolution of the biological samples problem can offer a way forward how to deal with specific issues more effectively which touch on basic principles of both MEA's. Better co-operation between the Secretariats is one way forward. However on more technical problems both CITES technical committees and CBD's SBSTTA could break new ground and how to work together more effectively on certain issues of common interest and concern.

As the CBD shall continue to play a central role in enhancing coordination between all biodiversity related conventions, in searching for concrete solutions, it would therefore seem appropriate that a key initiative is coming from the Secretariat of CBD.

Problems relating to Access and Benefit Sharing (ABS) seems at this stage one of the most pressing issues to start with. The installation of an ABS mediation process between both Secretariats of the two conventions could offer in this respect a clear way forward.

#### **4.4.4 References**

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- WIJNSTEKERS, W. (2001) : The Evolution of CITES. A Reference to the Convention on International Trade in Endangered Species of Wild Fauna and Flora. 6th Edition. Sadag Imprimerie; Bellegarde-sur-Valserine, France

#### **4.5 CITES, Conf. 10.4 : Cooperation and Synergy with the Convention on Biological Diversity**

##### **Conf. 10.4**

##### **Cooperation and synergy with the Convention on Biological Diversity**

WELCOMING decision III/21 of the Conference of the Parties to the Convention on Biological Diversity, which endorsed the Memorandum of Understanding between the CITES Secretariat and the Secretariat of the Convention on Biological Diversity;

EXPRESSING appreciation for the cooperation and cordial relationship that has been developed between the two Secretariats;

AWARE that decision III/21 of the Conference of the Parties to the Convention on Biological Diversity invites "the governing bodies of biological-diversity-related conventions to consider the possible contributions of those conventions to the implementation of the objectives of the Convention on Biological Diversity, and to share experience with the Conference of the Parties on, inter alia, successful management practices";

RECALLING that the Conference of the Parties to the Convention on Biological Diversity has invited "contracting Parties to relevant biological-diversity-related conventions to explore opportunities for accessing funding through the Global Environment Facility for relevant projects involving a number of countries, which fulfil the eligibility criteria and guidance provided by the Conference of the Parties to the Convention on Biological Diversity to the Global Environment Facility";

RECALLING also Chapter 38 of Agenda 21 and welcoming decision 19/9c of the Governing Council of UNEP which "recognizes the importance of the Programme's role in promoting and supporting cooperation and coordination with and amongst environmental agreements and their secretariats" and "requests the Conference of the Parties of the relevant conventions to encourage their respective convention secretariats to engage and continue to participate actively in the coordination process";

NOTING the proposal to explore the revival of the Ecosystem Conservation Group, which would meet within the context of UNEP's meetings on coordination of Secretariats of environmental conventions;

RECOGNIZING that UNEP should undertake such tasks in full cooperation with the Conference of the Parties;

## **THE CONFERENCE OF THE PARTIES TO THE CONVENTION**

**CALLS** upon the CITES Secretariat and the Secretariat of the Convention on Biological Diversity to coordinate their programme activities particularly through the UNEP coordination meetings;

**SUGGESTS** that Parties, as appropriate to their national circumstances and to encourage synergy, take measures to achieve coordination and reduce duplication of activities between their national authorities for each Convention;

**CALLS** upon Parties to explore opportunities for obtaining funding through the Global Environment Facility for relevant projects, including multilateral projects, which fulfil the eligibility criteria and guidance provided by the Conference of the Parties to the Convention on Biological Diversity to the Global Environment Facility;

**RECOMMENDS** that the Secretariat investigate opportunities whereby CITES can become a partner in the implementation of appropriate provisions of the Convention on Biological Diversity;

**INVITES** the Conference of the Parties to the Convention on Biological Diversity, at its fourth meeting, to consider further modalities for enhancing cooperation and synergy between the two Conventions, to be considered at the 11th meeting of the Conference of the Parties to CITES; and

**DIRECTS** the Chairman of the Standing Committee to transmit to the Conference of the Parties to the Convention on Biological Diversity this and other relevant Resolutions and Decisions adopted at the 10th and all future meetings of the Conference of the Parties.

## 4.6 Sustainable Use of Biodiversity – Addis Ababa Principles and Guidelines

The Addis Ababa Principles and Guidelines for the Sustainable use of Biodiversity consist of fourteen interdependent practical principles, operational guidelines and a few instruments for their implementation that govern the uses of components of biodiversity to ensure the sustainability of such uses. The principles provide a framework to assist Governments, resource managers, indigenous and local communities, the private sector and other stakeholders on how to ensure that their use of the components of biodiversity will not lead to the long-term decline of biological diversity. The principles are intended to be of general relevance, although not all principles will apply equally to all situations, nor will they apply with equal rigour. Their application will vary according to the biodiversity being used, the conditions under which they are being used, and the institutional and cultural context in which the use is taking place.

Click on each principle to see the full text of the principle, its rationale and operational guidance for the sustainable use of biodiversity.

Sustainability of use of biodiversity components will be enhanced if the following practical principles and related operational guidelines are applied:

- |   |  |
|---|--|
| <a href="#"><b><u>Practical principle 1</u></b></a> | Supportive policies, laws, and institutions are in place at all levels of governance and there are effective linkages between these levels.  |
| <a href="#"><b><u>Practical principle 2</u></b></a> | Recognizing the need for a governing framework consistent with international/national laws, local users of biodiversity components should be sufficiently empowered and supported by rights to be responsible and accountable for use of the resources concerned.  |
| <a href="#"><b><u>Practical principle 3</u></b></a> | International, national policies, laws and regulations that distort markets which contribute to habitat degradation or otherwise generate perverse incentives that undermine conservation and sustainable use of biodiversity, should be identified and removed or mitigated.  |
| <a href="#"><b><u>Practical principle 4</u></b></a> | Adaptive management should be practiced, based on: <ol style="list-style-type: none"> <li>1. Science and traditional and local knowledge;</li> <li>2. Iterative, timely and transparent feedback derived from monitoring the use, environmental, socio-economic impacts, and the status of the resource being used; and</li> <li>3. Adjusting management based on timely feedback from the monitoring procedures.</li> </ol> |
| <a href="#"><b><u>Practical principle 5</u></b></a> | Sustainable use management goals and practices should avoid or minimize adverse impacts on ecosystem services, structure and functions as well as other components of ecosystems.  |

- Practical principle 6** Interdisciplinary research into all aspects of the use and conservation of biological diversity should be promoted and supported.
- Practical principle 7** The spatial and temporal scale of management should be compatible with the ecological and socio-economic scales of the use and its impact.
- Practical principle 8** There should be arrangements for international cooperation where multinational decision-making and coordination are needed.
- Practical principle 9** An interdisciplinary, participatory approach should be applied at the appropriate levels of management and governance related to the use.
- Practical principle 10** International, national policies should take into account:
1. Current and potential values derived from the use of biological diversity;
  2. Intrinsic and other non-economic values of biological diversity and
  3. Market forces affecting the values and use.
- Practical principle 11** Users of biodiversity components should seek to minimize waste and adverse environmental impact and optimize benefits from uses.
- Practical principle 12** The needs of indigenous and local communities who live with and are affected by the use and conservation of biological diversity, along with their contributions to its conservation and sustainable use, should be reflected in the equitable distribution of the benefits from the use of those resources.
- Practical principle 13** The costs of management and conservation of biological diversity should be internalized within the area of management and reflected in the distribution of the benefits from the use.
- Practical principle 14** Education and public awareness programmes on conservation and sustainable use should be implemented and more effective methods of communications should be developed between and among stakeholders and managers.

## Sustainable Use of Biodiversity

### Addis Ababa Principles and Guidelines - Full Text

Sustainability in the use of biological diversity will be enhanced if the following practical principles and related operational guidelines are applied:

#### **Practical principle 1: Supportive policies, laws, and institutions are in place at all levels of governance and there are effective linkages between these levels.**

Rationale: There is need to have congruence in policies and laws at all levels of governance associated with a particular use. For example, when an international agreement adopts a policy regarding use of biodiversity, national<sup>(1)</sup> laws must be compatible if sustainability is to be enhanced. There must be clear and effective linkages between different jurisdictional levels to enable a “pathway” to be developed which allows timely and effective response to unsustainable use and allows sustainable use of a resource to proceed from collection or harvest through to final use without unnecessary impediment. In most cases the primary means for achieving congruence between local and international levels of governance should be through national governments.

#### **Operational guidelines**

- Consider local customs and traditions (and customary law where recognized) when drafting new legislation and regulations;
- Identify existing and develop new supportive incentives measures, policies, laws and institutions, as required, within the jurisdiction in which a use will take place, also taking into account Articles 8(j) and 10(c), as appropriate;
- Identify any overlaps, omissions and contradictions in existing laws and policies and initiate concrete actions to resolve them;
- Strengthen and/or create cooperative and supportive linkages between all levels of governance in order to avoid duplication of efforts or inconsistencies.

#### **Practical principle 2: Recognizing the need for a governing framework consistent with international/national<sup>(2)</sup> laws, local users of biodiversity components should be sufficiently empowered and supported by rights to be responsible and accountable for use of the resources concerned.<sup>(3)</sup>**

Rationale: Uncontrolled access to biodiversity components often leads to over-utilization as people try to maximize their personal benefits from the resource while it is available. Resources for which individuals or communities have use, non-use, or transfer rights are usually used more responsibly because they no longer need to maximise benefits before someone else removes the resources. Therefore sustainability is generally enhanced if Governments recognize and respect the “rights” or “stewardship” authority, responsibility and accountability to the people who use and manage the resource, which may include indigenous and local communities, private landowners, conservation organizations and the business sector. Moreover, to reinforce local rights or stewardship of biological diversity and responsibility for its conservation, resource users should participate in making decisions about the resource use and have the authority to carry out any actions arising from those decisions.

#### **Operational guidelines**



- Where possible adopt means that aim toward delegating rights, responsibility, and accountability to those who use and/or manage biological resources;
- Review existing regulations to see if they can be used for delegating rights; amend regulations where needed and possible; and/or draft new regulations where needed. Throughout local customs and traditions (including customary law where recognized) should be considered;
- Refer to the programme of work related to the implementation of Article 8(j) with regard to indigenous and local community issues (decision V/16), implement and integrate tasks relevant for the sustainable use of biodiversity components, in particular element 3, tasks 6, 13 and 14;
- Provide training and extension services to enhance the capacity of people to enter into effective decision-making arrangements as well as in implementation of sustainable use methods;
- Protect and encourage customary use of biological resources that is sustainable, in accordance with traditional and cultural practices (Article 10(c)).

**Practical principle 3: International, national policies, laws and regulations that distort markets which contribute to habitat degradation or otherwise generate perverse incentives that undermine conservation and sustainable use of biodiversity, should be identified and removed or mitigated.<sup>(4)</sup>**

Rationale: Some policies or practices induce unsustainable behaviours that reduce biodiversity, often as unanticipated side effects as they were initially designed to attain other objectives. For example, some policies that encourage domestic over production often generate perverse incentives that undermine the conservation and sustainable use of biological diversity. Eliminating subsidies that contribute to illegal, unreported and unregulated fishing and to over-capacity, as required by the WSSD Plan of Implementation in order to achieve sustainable fisheries, is a further instance of the recognition of the need to remove perverse incentives.

**Operational guidelines**

- Identify economic mechanisms, including incentive systems and subsidies at international, national levels that are having a negative impact on the potential sustainability of uses of biological diversity;
- Remove those systems leading to market distortions that result in unsustainable uses of biodiversity components;
- Avoid unnecessary and inadequate regulations of uses of biological diversity because they can increase costs, foreclose opportunities, and encourage unregulated uses thus decreasing the sustainability of the use.

**Practical principle 4: Adaptive management should be practiced, based on:**

- a. Science and traditional and local knowledge;
- b. Iterative, timely and transparent feedback derived from monitoring the use, environmental, socio-economic impacts, and the status of the resource being used; and
- c. Adjusting management based on timely feedback from the monitoring procedures.<sup>(5)</sup>

Rationale: Biological systems and the economic and social factors that can affect the sustainability of use of biological diversity are highly variable. It is not possible to have knowledge of all aspects of such systems before a use of biological diversity begins. Therefore, it is necessary for the management to monitor the effects of that use and allow adjustment of the use as appropriate, including modification, and if necessary suspension of unsustainable practices. In this context, it is preferable to use all sources of informa-

tion about a resource when deciding how it can be used. In many societies traditional and local knowledge has led to much use of biological diversity being sustainable over long time-periods without detriment to the environment or the resource. Incorporation of such knowledge into modern use systems can do much to avoid inappropriate use and enhance sustainable use of components of biodiversity.

### **Operational guidelines**

- Ensure that for particular uses adaptive management schemes are in place;
- Require adaptive management plans to incorporate systems to generate sustainable revenue, where the benefits go to indigenous and local communities and local stakeholders to support successful implementation;
- Provide extension assistance in setting up and maintaining monitoring and feedback systems;
- Include clear descriptions of their adaptive management system, which includes means to assess uncertainties;
- Respond quickly to unsustainable practices;
- Design monitoring system on a temporal scale sufficient to ensure that information about the status of the resource and ecosystem is available to inform management decisions to ensure that the resource is conserved;
- When using traditional and local knowledge, ensure that approval of the holder of that knowledge has been obtained.

### **Practical principle 5: Sustainable use management goals and practices should avoid or minimize adverse impacts on ecosystem services, structure and functions as well as other components of ecosystems.<sup>(6)</sup>**

Rationale: For use of any resource there is a need to take into account the functions that resource may fulfil within the ecosystem in which it occurs, and that use must not adversely affect ecosystem functions. For example, clear felling in a watershed could lead to erosion of soil and impairment of the water filtration function of the ecosystem. Avoidance of this situation would involve setting conservative cutting quotas with appropriate harvesting techniques and monitoring the effects of the harvest as it occurs. As another example, the shrimping industry has developed nets that can separate out juveniles and by-catch and also reduce negative effects on benthic and other associated communities.

### **Operational guidelines**

- Ensure management practices do not impair the capacity of ecosystems to deliver goods and services that may be needed some distance from the site of use. For example, selective cutting of timber in a watershed would help maintain the ecosystem's capacity to prevent soil erosion and provide clean water;
- Ensure that consumptive and non-consumptive use does not impair the long-term sustainability of that use by negatively impacting the ecosystem and species on which the use depends, paying special attention to the needs of threatened components of biological diversity;
- Apply a precautionary approach in management decisions in accordance with principle 15 of the Rio Declaration on Environment and Development;
- Identify successful experiences of management of biodiversity components in other countries in order to adapt and incorporate this knowledge in their efforts to resolve their own difficulties;
- Where possible consider the aggregate and cumulative impact of activities on the target species or ecosystem in management decisions related to that species or ecosystem;
- Where previous impacts have degraded and reduced biodiversity, support formulation and implementation of remedial action plans (Article 10(d)).

## **Practical principle 6: Interdisciplinary research into all aspects of the use and conservation of biological diversity should be promoted and supported.**

Rationale: International conventions and national decisions that affect use should always apply the best information on which to base decisions and be aware of the local circumstances where a use is undertaken. In addition, there is need to ensure that research is supported into the biological and ecological requirements of the species to ensure that the use remains within the capacity of the species and ecosystem to sustain that use. Further, to enhance incentives that promote sustainability, there would be value in investing in research to open up new economic opportunities for stakeholders.

### **Operational guidelines**

- Ensure that the results of research inform and guide international, national policies and decisions;
- Invest in research into techniques and technologies of management of biodiversity components that promote sustainability in both consumptive and non-consumptive uses of biodiversity;
- Encourage active collaboration between scientific researchers and people with local and traditional knowledge;
- Encourage international support and technology transfer, relating to both consumptive and non-consumptive uses of biodiversity;
- Develop cooperation between researchers and biodiversity users (private or local communities), in particular, involve indigenous and local communities as research partners and use their expertise to assess management methods and technologies;
- Investigate and develop effective ways to improve environmental education and awareness, to encourage public participation and to stimulate the involvement of stakeholders in biodiversity management and sustainable use of resources;
- Investigate and develop means of ensuring rights of access and methods for helping to ensure that the benefits derived from using components of biodiversity are equitably shared;
- Make research results available in a form which decision makers, users, and other stakeholders can apply;
- Promote exchange programmes in scientific and technical areas.

## **Practical principle 7: The spatial and temporal scale of management should be compatible with the ecological and socio-economic scales of the use and its impact.<sup>(7)</sup>**

Rationale: Management of sustainable use activities should be scaled to the ecological and socio-economic needs of the use. If, for example, fish are harvested from a lake, the owner of the lake should be in charge of, and accountable for, the management of the lake subject to national or, as appropriate, subnational policy and legislation

### **Operational guidelines**

- Link responsibility and accountability to the spatial and temporal scale of use;
- Define the management objectives for the resource being used;
- Enable full public participation in preparation of management plans to best ensure ecological and socio-economic sustainability.
- In case of transboundary resources, it is advisable that appropriate representation from those states participate in the management and decisions about the resources.

**Practical principle 8: There should be arrangements for international cooperation where multinational decision-making and coordination are needed.**

Rationale: If a biodiversity resource is transboundary between two or more countries then it is advisable to have a bilateral or multilateral agreement between those states to determine how the resource will be used and in what amounts. Absence of such agreements can lead to each state implementing separate management regimes which, when taken together, may mean that the resource is over-utilized.

**Operational guidelines**

- Make arrangements for international cooperation when the distribution of populations or communities/habitats being used span two or more nations;
- Promote multinational technical committees to prepare recommendations for the sustainable use of transboundary resources;
- Have bilateral or multilateral agreements between or among the States for the sustainable use of transboundary resources;
- Establish mechanisms involving the collaborating states to ensure that sustainable use of transboundary resources does not negatively impact the ecosystem capacity and resilience.

**Practical principle 9: An interdisciplinary, participatory approach should be applied at the appropriate levels of management and governance related to the use.**

Rationale: Sustainability of use depends on biological parameters of the resources being utilized. However, it is recognized that social, cultural, political and economic factors are equally important. It is therefore necessary to take such factors into consideration and involve indigenous and local communities and stakeholders, including the private sector, and the people experienced in these different fields, at all levels of the decision making process.

**Operational guidelines**

- Consider providing mechanisms that encourage interdisciplinary cooperation in management of biodiversity components;
- Set standards for resource management activities that promote interdisciplinary consultations;
- Facilitate communication and exchange of information between all levels of decision-making;
- Identify all relevant stakeholders and seek their participation in planning and executing of management activities;
- Take account of socio-economic, political, biological, ecological, institutional, religious and cultural factors that could influence the sustainability of the management;
- Seek guidance from local, traditional and technical specialists in designing the management plan;
- Provide adequate channels of negotiations so that potential conflicts arising from the participatory involvement of all people can be quickly and satisfactorily resolved.

## **Practical principle 10: International, national policies should take into account:**

- a. Current and potential values derived from the use of biological diversity;
- b. Intrinsic and other non-economic values of biological diversity and
- c. Market forces affecting the values and use.

Rationale: Recent work in calculating the potential costs of replacing natural systems with man-made alternatives has shown that such natural systems should be valued very highly. It follows that international and national policies that guide trade and development should compare the real value of natural systems against any intended replacement uses before such development is undertaken. For instance, mangroves have the function of fish-spawning and nursery sites, erosion and storm-surge alleviation and carbon sequestration. Coral reefs provide protection for juvenile fish and many species, as well as coastal zone protection.

### **Operational guidelines**

- Promote economic valuation studies of the environmental services of natural ecosystems;
- Incorporate this information in policy and decision making processes, as well as educational applications;
- Consider this principle in relation to land use/habitat conversion tradeoffs. Recognize that market forces are not always sufficient to improve living conditions or increase sustainability in the use of components of biological diversity;
- Encourage governments to take into account biodiversity values in their national accounts;
- Encourage and facilitate capacity building for decision makers about concepts related to economic valuation of biodiversity.

## **Practical principle 11: Users of biodiversity components should seek to minimize waste and adverse environmental impact and optimize benefits from uses.**

Rationale: Users should seek to optimize management and to improve selectivity of extractive uses through environmentally friendly techniques, so that waste and environmental impacts are minimized, and socio-economic and ecological benefits from uses are optimized.

### **Operational guidelines:**

- Eliminate perverse incentives and provide economic incentives for resource managers to invest in development and/or use of more environmentally friendly techniques, e.g., tax exemptions, funds available for productive practices, lower loan interest rates, certification for accessing new markets;
- Establish technical cooperation mechanisms in order to guarantee the transfer of improved technologies to communities;
- Endeavour to have an independent review of harvests to ensure that greater efficiencies in harvest or other extractive uses do not have a deleterious impact on the status of the resource being used or its ecosystem;
- Identify inefficiencies and costs in current methods;
- Conduct research and development into improved methods;
- Promote or encourage establishment of agreed industry and third party quality standards of biodiversity component processing and management at the international and national levels;
- Promote more efficient, ethical and humane use of components of biodiversity, within local and national contexts, and reduce collateral damage to biodiversity.

**Practical principle 12: The needs of indigenous and local communities who live with and are affected by the use and conservation of biological diversity, along with their contributions to its conservation and sustainable use, should be reflected in the equitable distribution of the benefits from the use of those resources.**

Rationale: Indigenous and local communities and local stakeholders often shoulder significant costs or forgo benefits of potential use of biological diversity, in order to ensure or enhance benefits accruing to others. Many resources (e.g., timber, fisheries) are over-exploited because regulations are ignored and not enforced. When local people are involved as stakeholders such violations are generally reduced. Management regimes are enhanced when constructive programmes that benefit local communities are implemented, such as capacity training that can provide income alternatives, or assistance in diversifying their management capacities.

**Operational guidelines:**

- Promote economic incentives that will guarantee additional benefits to indigenous and local communities and stakeholders who are involved in the management of any biodiversity components, e.g., job opportunities for local peoples, equal distribution of returns amongst locals and outside investors/co-management;
- Adopt policies and regulations that ensure that indigenous and local communities and local stakeholders who are engaged in the management of a resource for sustainable use receive an equitable share of any benefits derived from that use;
- Ensure that national policies and regulation for sustainable use recognize and account for non-monetary values of natural resources;
- Consider ways to bring uncontrolled use of biological resources into a legal and sustainable use framework, including promoting alternative non-consumptive uses of these resources;
- Ensure that an equitable share of the benefits remain with the local people in those cases where foreign investment is involved;
- Involve local stakeholders, including indigenous and local communities, in the management of any natural resource and provide those involved with equitable compensation for their efforts, taking into account monetary and non-monetary benefits;
- In the event that management dictates a reduction in harvest levels, to the extent practicable assistance should be provided for local stakeholders, including indigenous and local communities, who are directly dependent on the resource to have access to alternatives.

**Practical principle 13: The costs of management and conservation of biological diversity should be internalized within the area of management and reflected in the distribution of the benefits from the use.<sup>(8)</sup>**

Rationale: The management and conservation of natural resources incurs costs. If these costs are not adequately covered then management will decline and the amount and value of the natural resources may also decline. It is necessary to ensure that some of the benefits from use flow to the local natural resource management authorities so that essential management to sustain the resources is maintained. Such benefits may be direct, such as entrance fees from visitors to a national park paid directly to, and retained by, the park management authority or indirect, such as stumpage tax revenue from timber harvesting paid by loggers that flows through a national treasury to a local forest service. In some cases licence fees for fishing rights are paid directly to the management authority, or to the national treasury.

## Operational guidelines

- Ensure that national policies do not provide subsidies that mask true costs of management;
- Ensure that harvest levels and quotas are set according to information provided by the monitoring system, not the economic needs of the management system;
- Provide guidelines for resource managers to calculate and report the real cost of management in their business plans;
- Create other alternative mechanisms to invest revenues from biodiversity management;
- Provide economic incentives for managers who have already internalized environmental costs, e.g., certification to access new markets, waiver or deferral of taxes in lieu of environmental investment, promotion of “green-labelling” for marketing.

## **Practical principle 14: Education and public awareness programmes on conservation and sustainable use should be implemented and more effective methods of communications should be developed between and among stakeholders and managers.**

Rationale: To ensure that people are aware of the connectivity between different parts of biological diversity, its relevance to human life, and the effects of uses it is advisable to provide means to engage people in education and awareness of the opportunities and constraints of sustainable use. It is also important to educate people on the relationship of sustainable use and the other two objectives of the Convention. An important way to achieve sustainable use of biological diversity would be to have in place effective means for communications between all stakeholders. Such communications will also facilitate availability of the best (and new) information about the resource.

## Operational guidelines

- Plan education and public-awareness activities concerning: management, values of sustainable use, changing consumption patterns and the value of biodiversity in the lives of people;
- Ensure that public-awareness programmes also inform and guide decision makers;
- Target all levels of the chain of production and consumption with such communications;
- Report lessons learned about sustainable use activities to the clearing-house mechanism of the Convention on Biological Diversity;
- Encourage and facilitate communication of lessons learned and best practices to other nations;
- Ensure that resource users report to government on their activities in a manner that facilitates broader communications;
- Increase awareness of the contributions of knowledge, practices and innovations of indigenous and local communities for the sustainable use of biological diversity.

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**Notes:** <sup>(1)</sup> It is recognized that, throughout the principles, rationale and operational guidelines, the term “national” may mean either national or, as appropriate in some countries, subnational

<sup>(2)</sup> Where consistency with international law is referred to this recognizes: a) that there are cases where a country will not be a party to a specific international convention and accordingly that law will not apply directly to them; and b) that from time to time countries are not able to achieve full compliance with the conventions to which they are a party and may need assistance

<sup>(3)</sup> See principle 2 of the ecosystem approach

<sup>(4)</sup> See principle 4 of the ecosystem approach

<sup>(5)</sup> See principles 9 and 11 of the ecosystem approach

<sup>(6)</sup> See principles 3, 5 and 6 of the ecosystem approach

<sup>(7)</sup> See principles 2 and 7 of the ecosystem approach

<sup>(8)</sup> See the operational guidance for the application of the ecosystem approach (decision V/6, annex, section C, para. 11).

#### 4.7 International Plant Exchange Network – An exchange system for botanic gardens for non-commercial purposes according to the CBD, W. LOBIN ET AL. ON BEHALF OF THE BGCI / IABG-CONSORTIUM OF BOTANIC GARDENS IN THE EU

### International Plant Exchange Network (IPEN)

An exchange system for botanic gardens for non-commercial purposes according to the CBD

W. Lobin, M. von den Driesch, F. Klingenstein, B. van den Wollenberg,  
Maïté Delmas, Thierry Helminger, Michael Kiehn, Kari Laine,  
Frank Schumacher, Steve Waldren  
on behalf of the BGCI/IABG-Consortium of Botanic Gardens in the EU



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### Background of IPEN

- CBD: entry into force in December 1993
- botanic gardens have to consider how to comply with the CBD
- need to establish a CBD's Access and Benefit Sharing (ABS) system
- 1996 to 2002: the German Ministry of Environment funded research and development projects on botanic gardens (bg) and their contribution to the implementation of the CBD  
→ based at the Bonn botanic gardens



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### Background of IPEN (cont. I)

- one main objective of project:  
promote the process of discussing ABS issues within botanic gardens in Germany and the Association of Botanic Gardens
- representatives of 34 botanic gardens from Austria, Germany and Switzerland took part
- development of "Code of Conduct" for Botanic Gardens
- The Association of Botanic Gardens established a working group "CBD"
- that enhanced the "Code of Conduct" and developed the "International Plant Exchange Network" (IPEN)



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### Background of IPEN (cont. II)

At the same time an international pilot project "Botanic Garden's policy on Access to Genetic Resources and Benefit Sharing" was funded.

- based at Royal Botanic Gardens, Kew (England),
- "Principles on access to genetic resources and benefit-sharing for participating institutions"
- Principles = overall approach covering all obligations of the CBD
- "Principles" and "IPEN" are to clarify the position of botanic gardens on ABS and to facilitate exchange of genetic resources.



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### Background of IPEN (cont. III)

- **The IPEN**

- is based on the "Code of Conduct", provides a mechanism for implementation of this code
- serves for the exchange of plant material within botanic gardens and for non-commercial purposes only
- is supported and promoted by the European Consortium of Botanic Gardens  
(platform of official representatives of the national networks of bg's in EU)
- IPEN is open to botanic gardens of all countries  
(not only to bg's of EU)



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### Objectives of the IPEN

- compliance with the obligations of the CBD
- system transparent to the countries of origin
- create confidence in the work of botanic gardens worldwide and thus facilitate access (incl. benefit-sharing)
- minimize bureaucracy for plant exchange between botanic gardens
- make the traditional seed exchange work under the CBD



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### Dimension of seed exchange

for the 95 BG's in Germany p.a.

receipt of seeds: 79.983

supply of seeds: 260.010

= 326.000 total transactions

= 3.400 transactions per garden

Traditional seed exchange is the main source for BG's.

BG's depend extensively on regular access/exchange of plant material from ex-situ-conditions.



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### Scope of the IPEN

- aiming on small gardens with limited staff capacity
- with non-commercial basic research
- which obtain most of their material through the traditional (ex-situ) seed exchange
- small gardens with limited resources might have legal access to plant material collected in-situ also in future (if large gardens are member of IPEN)



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## Fundamentals of the IPEN

- **UNIFIED POLICY (Code of Conduct)**  
to meet the provisions of the CBD in receiving, storing, and supplying plant material and on Benefit-Sharing
- **free exchange only for NON-COMMERCIAL purposes**
- **free exchange only between BOTANIC GARDENS**
- **including pre-CBD-material** (no retroactive benefit sharing)
- **including Material Supply Agreements (MSA)** to be used for exchange with institutions not sharing these policy



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## Registration

- **gardens declaring the adoption of the “Code of Conduct” get registered**  
(at the moment by BG Bonn, in future by BGCI)
- **list of registered gardens is made available by internet**
- **after 5 years, the procedure of adoption must be renewed**
- **the overall idea:**  
→ exchange of plants with as little bureaucracy as possible

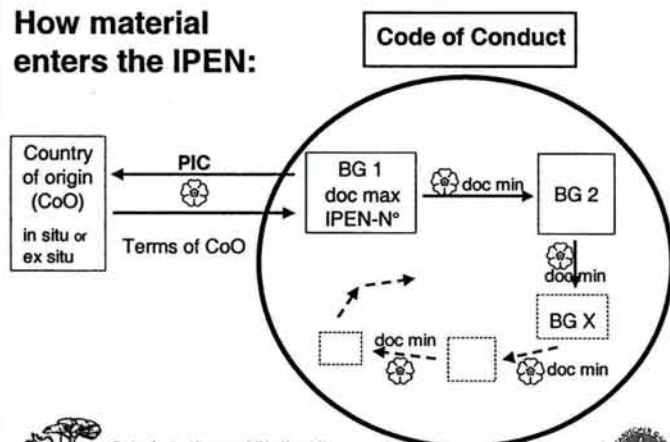


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## How material enters the IPEN:



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## “doc max”

= documentation sheet for plant material entering the IPEN

- **IPEN-Number:** country code, acronym of inst., accession N°
- **taxonomic data**
- **type of material**
- **source** (collector, CoO etc.)
- **Permits** (e.g. CITES)
- **terms of CoO or of other stakeholder**

## “doc min”

= Minimum set of data to be documented

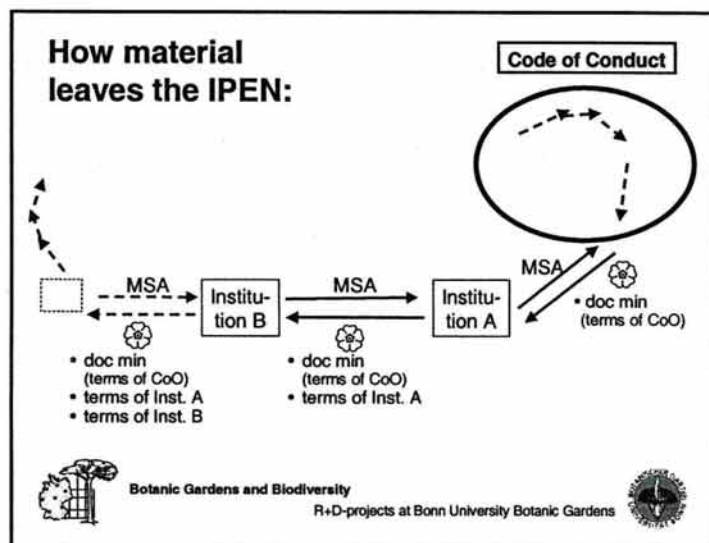
- **IPEN - Number**
- **Contry of Origin (CoO)**
- **terms of CoO or of other stakeholder**



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### Summary

**The IPEN works for:**

- material acquired under general terms of the CBD
- non-commercial use
- free plant exchange between registered BG's

**For all other actions individual agreements are needed, especially for:**

- material acquired under specific terms/restrictions
- intended commercialisation
- exchange with institutions other than BG's

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[www.biologie.uni-ulm.de/verband/cbd/list.html](http://www.biologie.uni-ulm.de/verband/cbd/list.html)  
in future hosted by BGCI

**Verband Botanischer Gärten e.V.**  
Abgegründet im Botanischen Garten Bonn

**CBD-Kooperation**

**Implementation in Europe**

- EU Consortium of BG's endorsed the ABS-System/IPEN
- several European networks (will) participate

**Registration (III/2003)**

Alter Botanischer Garten der Universität Göttingen	Austria:	4
Botanischer Garten Bonn	Germany:	34
Botanischer Garten der TU Darmstadt	Luxembourg	2
Botanischer Garten der TU Dresden	Netherlands:	19
Botanischer Garten der Universität Bochum	Switzerland:	2
Botanischer Garten der Universität Hamburg		
Botanischer Garten der Universität Münster		
Botanischer Garten der Universität Osnabrück		
Botanischer Garten der Universität Saarbrücken		
Botanischer Garten und Botanisches Museum Berlin		
Palmengarten der Stadt Frankfurt/Main		

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Research

Education

Conservation

Recreation

**You are very welcome to join IPEN!**

Lotus  
*Nelumbo nucifera*

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## 5 Appendix

### 5.1 Agenda

#### EXPERT WORKSHOP

#### PROMOTING CITES-CBD COOPERATION AND SYNERGY

20-24 APRIL 2004, VILM / GERMANY

#### AGENDA

##### 20 April 2004

Arrival

18.30 *Dinner*

Welcome (BfN, as host, on behalf of the organisers)

##### Day 1 (21 April 2004)

#### Introduction

08.30 Welcome (TERESA MULLIKEN, on behalf of the Steering Committee)

08.40 Agreement of the meeting goals, agenda and approach and introductions  
(TOM HAMMOND)

09.35 UNEP's role in promoting cooperation and synergy between the biodiversity related Conventions  
(ROBERT HEPWORTH)

10.00 CITES-CBD synergy – perspectives from CITES (MARCEIL YEATER)

10.25 CITES-CBD synergy – perspectives from the CBD (MARKUS LEHMANN)

10.50 *Coffee break*

11.10 General discussion and identification of issues emerging

12.30 *Lunch*

#### Co-ordinated implementation of the Conventions at the international level - opportunities and challenges

13.30 Relating the operational structures and decision-making of the two conventions  
(MARTIN JENKINS)

14.00 Potential links between CBD framework tools and CITES (TOMME YOUNG)

**Day 1 (21 April 2004) continuation**

14.30 Case study presentations by six government representatives

- Canada (CAROLINA CACERES)
- Bolivia (MARIO BAUDOIN)
- Colombia (SARAH HERNANDEZ)
- India (SHEKHAR KUMAR NIRAJ)

15.30 *Coffee break*

15.45 Case study presentations contd.

- Madagascar (CLAUDINE RAMIARISON)
- Seychelles (JOSEPH FRANÇOIS)

18.30 *Reception by the host, BfN*

**Day 2 (22 April 2004)**

**Co-ordinated implementation of the Conventions at the thematic level - opportunities and challenges**

08.45 CITES-CBD approaches to the trade in wild animal species used for meat and other products (TERESA MULLIKEN)

09.15 The Global Strategy for Plant Conservation - an example of increasing CITES-CBD synergy (SARA OLDFIELD)

10.30 *Coffee break*

11.00 CITES Non-Detriment Findings and CBD Sustainable Use Principles (ALISON ROSSER)

11.30 Access and Benefit Sharing – potential for mutual supportiveness in between CITES and CBD implementation; presentation of outcomes from Lima workshop (VICTORIA LICHTSCHEIN)

12.30 *Lunch*

13.30 Discussion - Identification of issues emerging and potential mechanisms for increasing synergy at the national level

16.00 Identification of issues to be addressed in working groups

16.45 Tour of the island (1.5 hours)

18.30 *Dinner*

**Day 3 (23 April 2004)**

08.30 Working Group Sessions

Working Group I: Sustainable use

Working Group II: Access and benefit-sharing

Working Group III: Linking site-based, thematic and species-based approaches

12.30 *Lunch*

14.00 Working groups continued

16.30 Report back from Working Groups

18.30 *Dinner*

19.30 Review and discussion of the results from the working groups

21.00 Cultural Diversity: participants to demonstrate traditional customs, drinks or delicatessen

**Day 4 (24 April 2004)**

09.00 Review and discussion of draft meeting report, including final proposals for strengthening co-operation and synergy between the two conventions, and next steps

11.00 *Coffee break*

11.30 Wrap-up

12.30 *Snack lunch*

13.30 Departure





**Participants' list**

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