

# **Implementation of Multilateral Environmental Agreements by India**

## **Legislative Harmonisation: Meeting the Requirements of the CBD and other multilateral environmental agreements**

Bansuri Taneja<sup>1</sup>

### **I Introduction**

This report is a part of a study commissioned by the Biodiversity Planning Support Programme of the United Nations Environment Programme. The aim of this study: titled “Legislative Harmonisation: Meeting the Requirements of the Convention on Biological Diversity (CBD) and other multilateral environmental agreements” is to arrive at best practice in simultaneously meeting the requirements of numerous multilateral environmental agreements. The current piece of work deals with India’s implementation of some of these multilateral agreements, and with two active regional cooperation initiatives for biodiversity conservation. This study is based on the fact that the implementation of the CBD might benefit from coordination with other activities related to Multilateral Environmental Agreements (MEAs). Also, biodiversity being a wide ranging subject, it is likely that some activities to be undertaken might already be covered as part of other MEAs.

The methodology adopted for the present study was to conduct interviews with representatives from the relevant Government agencies and departments involved, and individuals and organisations that have played a part in the implementation of MEAs. Websites of the individual MEAs, and national reporting of various forms relating to the MEAs were also consulted. Publications of non-governmental sources related to some aspect of MEAs were also consulted.

Section II defines the scope of the study. Section III describes the implementation of the individual MEAs, and the interaction each of them have with the other conventions. Section IV analyses the constraints upon the harmonisation of the various conventions in India, and seeks to discern best practice in this area from the Indian experience. Section V presents conclusions and tentative recommendations for the implementation of the CBD.

### **II Scope of the Case Study**

This report covers provides a description and analysis of the adoption and implementation of biodiversity-related conventions in India. The following conventions are covered:

- Convention on Biological Diversity
- Convention on International Trade on Endangered Species
- Convention on Migratory Species
- Ramsar Convention on Wetlands
- The World Heritage Convention
- Convention to Combat Desertification

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<sup>1</sup> 208 Miles Buildings, Penfold Place, London NW1 6RN.  
[bansuritanuja@hotmail.com](mailto:bansuritanuja@hotmail.com)

- Framework Convention on Climate Change

Also examined in this report are India's role in the Global Tiger Forum, a regional association of tiger-range countries, and activities under the South Asia Cooperation for Environmental Protection (SACEP), a division of the South Asian Association for Regional Cooperation.

### III Implementation of the conventions and agreements at the national level:

- a) Special Circumstances:

#### Single authority:

The overarching institution responsible for the environment protection in India, and therefore the various international conventions, is the Ministry of Environment and Forests (MoEF), a part of the central government. The MoEF began as a Department of Environment in the Ministry of Agriculture in 1980, and in 1985 was instituted as a separate ministry. At the time of being set up, the Department had considerable (and weighty) political support from the then prime minister Indira Gandhi. The primary division of labour in the MoEF is on the subject areas of Forests and of Environment. The 'environment' section of MoEF has several divisions, dealing with Hazardous Substances Management, Ozone, Environmental Education, Clean Technology, Environmental Information and NGOs, Conservation and Survey, Environmental Impact Assessment, Control of Pollution and Policy and Law respectively. The National Afforestation and Ecodevelopment Board, and the National River Conservation Directorate, also fall under this section of the MoEF.

The section dealing with forests is sub divided into the Forest Conservation and Wildlife cells. Forest Conservation, Policy, Survey and Utilization and Protection fall under the purview of the Forest Conservation cell, and the Zoo Authority and various projects related to charismatic mega fauna under the Wildlife cell.

All protected areas in India, which are the main instrument for *in situ* biodiversity conservation, are managed by the Indian Forest Service (IFS). This service was established by the colonial government, and has continued as the management functionary for forests in India. The IFS is also an integral part of the MoEF, the Forests section of the Ministry being manned by senior officials of the IFS.

#### Enunciated Policies

The MoEF issued an Environment Action Programme in 1993, independent of requirements under the conventions, cutting across various sectors. The objectives of the EAP included:

- a) assessing the environment scene in India against the backdrop of the changing economic policies and programmes
- b) reviewing the current policies and programmes which address the various environmental problems of the country;
- c) identifying the future direction and thrust of these policies and programmes to establish priorities and outline a strategy for the implementation of these priorities;

The EAP also identified seven top priority areas which included

- a) conservation and sustainable utilization of biodiversity in selected eco-systems including forests, mangroves, wetlands, coral reefs, mountain ecosystems;
- b) afforestation, waste lands development and conservation of soil and moisture and ensuring that water courses were not polluted;

- c) control of industrial and related pollution with an accent on the reduction and/or management of wastes, particularly hazardous wastes;
- d) improving access to clean technologies;
- e) tackling urban environmental issues;
- f) strengthening scientific understanding of environmental issues, as well as structures for training at different levels, orientation and creating environmental awareness, resources assessment, water management problems etc.; and
- g) an alternative energy plan.

It was not possible for the author to ascertain how far the EAP has been implemented.

On similar lines as the EAP, the National Conservation Strategy and Policy Statement on Environment and development was also issued in 1992. This document outlines India's environmental problems- nature and dimensions, action taken, constraints agenda and strategies for action and analyses of developmental policies from environmental perspectives. There are also sections on international cooperation and support policies and systems.

#### Non-governmental sector:

India is also home to a complex and diverse environmental movement in the non-governmental sector. Though the most widely discussed issues have been extent and quality of forest cover, and the impacts of large dams, other concerns include biotechnology, genetic and biotic diversity, organic vs. high-input farming, and the preservation of wildlife and natural habitats.

Thought and action have evolved together in the Indian citizenry's response to the state's vision of environmentalism. The array of citizen's actions range from grassroots activism to advocacy at international levels, and have in common some commentary on development and the motivation to alter government policy in some way. The earliest citizen's groups formed around environmental issues in India were based on elite and aesthetic sensibilities. These elite groups worked together with the state to protect particular areas and species. A constituency of 'preservationists' still exists, though their agenda is increasingly linked with the wider environmental movement. Two other main strands of thought stand in opposition to the species based conservationist approach. One perspective holds industrialization and the existing development paradigm responsible for the environmental crisis, and espouses pre-colonial, pre-industrial rural India as the social and ecological ideal. The second strand of thought is also critical of contemporary development processes. In addition, the social relations of production are invoked while explaining the occurrence and experience of environmental crisis.

In the contemporary setting, environmental movements pose a critique of the established model of growth, and simultaneously constitute a demand for redefining development. In all, the environmental movement tends to combine a Gandhian and a Marxist perspective, with respect to numerous human rights issues and even democracy being a part of the conservation imperative. At the same time, the species based approach to conservation is also taking into account the need to include local human populations, albeit only as part of a management strategy.

This diverse movement has contributed in a large way to the implementation of conventions related to biodiversity, at the ground level and at the conceptual level, and has also contributed to the stand that India has taken at the international negotiations relating to these conventions. Non-governmental organizations have been invited by the MoEF time and again to contribute to the evolution of policy relating to the environment/ biodiversity. At the same time, it has to be noted that a portion of the conservation work at the ground level done by NGOs is critical of the state's policies or positions

## **The Convention on Biological Diversity**

India became a signatory to the CBD in December 1993 and ratified the Convention in February 1994. The MoEF was nominated the focal point for the CBD. The MoEF constituted a core group in January 1994, even prior to the ratification of the convention, to discuss elements of the national law, rules and regulations that would have to be enacted to give force to the provisions of the CBD. The core group consisted of representatives from different ministries of the Government, and from the non-governmental sector. This latter group included leading environmental NGOs, researchers and activists. This core group initiated a process of discussion and debate on the various possibilities for implementing the provisions of the CBD. The results of these discussions can be seen in the National Policy and Macro Level Action Strategy for Biodiversity.

Legal Measures: Many different environmental legislations exist in India to aid in the conservation of biological diversity. These are:

- a) The Wildlife (Protection) Act (1972), Amended 1992
- b) Forest (Conservation) Act (1980)
- c) Environment Impact Assessment Notification (1994)
- d) National Environment Appellate Authority Act (1997)
- e) Environment (Protection) Act 1986
- f) National Environment Tribunal Act (1995)

To deal specifically with CBD principles relating to access to genetic resources, a proposed Biodiversity Bill has been under preparation and discussion. Discussions on the need for such an act, and a proposed format and provisions had been under way since early 1994. Two national consultations were also held where the nature of this Bill was discussed, and after many revisions and iterations, the Bill was presented in Parliament in 2000. A Joint Parliamentary Committee is currently accepting depositions on the bill, and is expected to amend its provisions based on depositions received.

A Joint Parliamentary Committee on the proposed Plant Varieties (Protection) Act is also receiving depositions. This proposed legislation deals with benefit sharing in the context of development of new agricultural seed varieties.

Institutional Measures: The network of institutions dealing with issues of biodiversity are vast. In addition to MoEF, the Ministry of Agriculture is responsible for, *inter alia*, domesticated biodiversity, fisheries, issues relating to shifting cultivation. Other departments and ministries at the central level are the Department of Science and Technology (technologies of environment protection), Ministry of Rural Development (regeneration of biomass outside recorded forest areas), Ministries of Power and Non-Conventional Energy Sources, Ministry of Water Resources (water quality and monitoring), and Ministry of Commerce (trade related aspects of biological resources). Large numbers of educational and research institutions are affiliated with these government bodies.

All states and union territories have departments looking after environment and forests. State Pollution Control Boards, Wildlife Advisory Boards and in some cases committees on Biosphere Reserves. Some states also house specialised institutions, e.g. the Kerala Forest Research Institute, and the Gujarat Ecology Commission.

However, most of these institutions exist independent of India's accession to the CBD. Their sphere of work thus may be wider than the mandate of the CBD, though it is likely that they are engaged in some activities arising directly from the CBD.

**Reporting and Action Planning:** The first national report to the COP on the implementation of Article 6 was completed in 1997. The second national report is under preparation.

A National Policy and Macro level Action Strategy on biodiversity was articulated in 1999. A micro-level National Biodiversity Strategy and Action Plan is currently under preparation.

The NBSAP project entails formulation of state level, sub-state level, thematic, and inter-regional action plans, to be executed by different working groups and nodal agencies. These various levels of action plans (or Strategy and Action Plans, SAPs) will come together in the national SAP. Thus, the NBSAP as it stands today will produce not just a national level action plan, but a series of action plans at different conceptual and geographic levels, which will incorporate considerable detail. These plans will also contain project proposals for further action.

The subject under discussion in the preparation of the action plan will include, *inter alia*, issues such as widening participation and discussion, reviewing development strategies and budgets, and the socio-economic and fiscal dimensions of biodiversity conservation. International issues, including India's being a signatory to various environmental conventions, is a cross cutting theme all executing agencies are meant to consider<sup>2</sup>.

The NBSAP aims to give equal importance to the process as to the final product - the National action plan. The method employed to do this is two-fold, the first being the decentralisation of the planning process to different levels. The other aspect of the process is that plan preparation is geared to be as broad based and participatory as possible. Agencies are instructed to hold public hearings, invite participation through public announcements, invite submissions/contributions to the process, and make use of local languages as far as possible.

About half of the executing agencies are well into the plan preparation process. The first draft Strategy and Action Plan, a local area action plan centered on agricultural biodiversity, was released in Andhra Pradesh in February 2001.

### **Convention on International Trade in Endangered Species(CITES):**

India became a party to CITES in 1976, and it came into force later the same year. As is possibly the case with other countries, CITES being the oldest convention, legal and institutional measures for its implementation are the most wide ranging, when compared with the other MEAs.

**Legal measures:** The trade in all wild flora and fauna in India, including the species listed in CITES, is regulated jointly by the Wildlife (Protection) Act (1972), the Import and Export Policy of the Government of India, and the Customs Act (1962). The Wildlife (Protection) Act of 1972 (WLPA) predated CITES, and put an end to hunting of several endangered species, though it allowed trade in trophies and certain animal derivatives, even those of endangered species, by licensed traders. With the emergence of CITES, and seeing this as a serious lacuna, in 1986 the Act was amended putting a complete ban on trade in trophies or derivatives. The Act was amended once again in 1991. With this amendment, hunting of a wide variety of animals was

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<sup>2</sup> Other cross cutting themes are: People's participation; Empowerment and equity issues; including the use of indigenous knowledge and practices; Gender; Participation of the corporate

banned, which included all Indian species in Appendix 1 of CITES, and most Indian species in Appendix II and III.

Collection or trade of Indian plants listed in CITES was also prohibited. Stocks of wildlife products existing in the possession of licensed traders had to be stamped with identification, and transportation of wildlife or wildlife products required a permit. Trade in ivory and ivory products was also banned.

The Import and Export Policy of the Government of India is announced periodically by the Ministry of Commerce, GoI. Here the policy relating to flora, fauna and derivatives is stated. The policy is prepared in consultation with the Management Authority for CITES in India. The Import-Export Policy is enforced through the Customs Act (1962). Under this Policy, import of animals, plants, their parts or produce is allowed in compliance with CITES for research purposes or for zoological parks. Export of all forms of wildlife is prohibited, except for certain kinds of animals and plants, and derived products, all of which are well detailed in the policy. Re-export is permitted, except where governed by a Negative List of Exports.

A special law for CITES, tentatively titled the Endangered Species (Imports and Exports) Act, was under consideration in the later 1970s and early 1980s. This was drafted as well, with some assistance from IUCN, but this was not promulgated and it has been out of the public. An amendment to the WFLA, with specific reference to CITES, is planned and has been under discussion for a few years, but has not been promulgated as yet.

Institutional Measures: CITES Management in India is divided between three levels of the management authority, and the Scientific Authorities.

The main Management Authority for India are the Additional Inspector General of Forests (Wildlife Division) and the Director (Wildlife Preservation) at the MoEF. Assistant Management Authorities are deployed at five locations across the country. Four of these hold the jurisdiction of the Northern, Southern, Eastern and Western Regions of the country. The jurisdiction of the fifth, the Director of Project Tiger (a GoI programme focused on the conservation of the tiger) based in Delhi, is unspecified. Additionally, wildlife inspectors are posted at Customs check points in New Delhi, Mumbai, Calcutta, Chennai, Cochin and Tuticorin (designated ports for the import and export of CITES listed flora and fauna). Assistant Directors (Wildlife Preservation) have been additionally deployed in three sensitive locations: Amritsar, Cochin and Guwahati. Other officials of the Indian Forest Service are the functionaries at the state levels, being responsible for issuing licenses to traders and legal procurement certificates.

The Scientific Authorities are the Botanical and Zoological Surveys of India, the Central Marine Fisheries Research Institute, and the Wildlife Institute of India. These scientific authorities however do not have regular formal contact with the management authority. The sharing of information takes place on an informal basis, citing delays in case proper procedure is followed. Also it is stated that for where permits were issued for export of wild caught species, the purposes of export were scientific or educational, and the status of the species was in no doubt,

In a 1996 survey on the effectiveness of the implementation of CITES, India's management authorities stated that domestic financial limitations, shortage of scientific personnel, administrative personnel and equipment, and insufficient scientific information on the vulnerability of species were constraints acting upon India's implementation of the convention. The management authority also felt that larger contributions to the trust fund and greater monitoring capabilities were of the essence. However, the management authority itself has been

lacking in certain respects, as the authority did not respond to queries with respect to infractions on fur and orchid trade.

A committee was established in 1994 to review the issues of illegal wildlife trade. The committee's recommendations covered a wide spectrum, but also contained detailed points regarding strengthening the wildlife protection network, improving enforcement, enlisting the support of local people, etc. A National Coordination Committee for control of illegal wildlife trade was set up in 1995, consisting of representatives of various enforcement agencies and the management authorities. The committee met less often than its mandate required, and it has not been possible to gauge its efficacy. A regular training course for enforcement officials takes place at the Wildlife Institute of India and the induction course for Customs Officials includes a fortnight long capsule at the above institute.

Various NGOs play a strong role in the enforcement of CITES as well. The strongest institutional linkage might be that of TRAFFIC-India, which is mandated to compile seizure data. It also monitors the trade and use of wild species and their derivatives, to aid in assessing the chances of survival of these species. It also makes a contribution to the preview process of listing proposals in the Indian region. The Wildlife Trust of India and the Wildlife Protection Society of India are also active in the conservation of wild species in relation to CITES and its implementation in India. They also play a strong role in awareness building.

Various exchange seminars on the enforcement of CITES have taken place over the years, which a few Indian individuals associated with the management authority structure or the enforcement agencies, have attended. It is open to question how pertinent it may be for only a few individuals to attend these orientation seminars. A workshop in conjunction with USAID and the Fish and Wildlife Service was held in India in 1995, which was also attended by only about 50 persons.

Regional Cooperation: India and Nepal met to discuss transboundary conservation of biodiversity in 1997 and then again in 1999. Various conclusions of conceptual and subsequently practical importance emerged from these consultative meetings. These meetings are envisaged to be regularly held, with the aim of carrying forward the benefits of transboundary cooperation. However, the free trade between Nepal and India makes the implementation of CITES in this case somewhat more complicated.

There are significant gaps in the implementation of CITES in India. Trade in wildlife being regulated under the Export and Import Policy and the Customs Act means that there is no domestic regulation of endangered species or their derivatives. An article having once entered the country does not fall under the purview of any legislation. Low standards and capability of enforcement of CITES and/or monitoring movement of wildlife articles is also constitutes a problem in the implementation of CITES. However, the proposed amendment to the WLPA currently being discussed is envisaged as a means to plug this gap in domestic legislation pertaining to the transport of wild species. Another significant lacuna is that the WLPA, and its current restrictions on transport of wildlife (as well as the schedules which pertain to the Export-Import policy) does not pertain to the northern state of Jammu and Kashmir. This state has a WLPA of its own, where the species that can be hunted or traded differ significantly from those listed in the Indian WLPA. This raises the thorny issue of whether a CITES appendix species can be legally exported from Jammu and Kashmir (J&K), or if the exim policy applies once an article has entered the state. An example of this complication is the case of Shahtoosh ( a wool made from the wool on the underbelly of the endangered Tibetan antelope). For many years, this article entered J& K *legally*, though it was in violation of CITES laws in India. An NGO then filed a public interest litigation on this issue, where in a judgement in 2000 upheld CITES laws over the

J&K WLPA. The state is now required to amend its legislation to bring it closer to the Indian WLPA.

Coordination with other conventions does not take place at an official or even unofficial level within the country. According to an NGO activist working on CITES enforcement, such coordination would be very difficult at the national level since the thrust of the various conventions is quite variant. Such coordination should primarily be attempted at the international level, which could then be translated at the national level.

### **Ramsar Convention on Wetlands**

India signed the Ramsar Convention in 1981. Parties to the convention are obliged to have at least one wetland listed as being a Ramsar site, with a commitment to maintaining its conservation and wise use. Other obligations include to incorporate wetland conservation considerations in national land-use planning, to promote as far as possible, "the wise use of wetlands in their territory" establishing nature reserves and training of personnel for wetland management, and consulting with other parties especially for the conservation of trans-border wetlands.

Two wetlands in India were nominated for inclusion on the Ramsar list at the time of signing the Convention. A further four were added in 1990. India has committed to nominating another 25 sites for inclusion in the Ramsar list. For this, the MoEF is working in active collaboration with the Wetlands Cell of WWF-India to prepare fact sheets on the suggested wetlands. Fact sheets for approximately 14 sites are completed, and of these 8 have been forwarded to the Ramsar Bureau for consideration.

There are no specific legal measures geared to the implementation of the Ramsar convention. Laws pertaining to environmental conservation in general also apply to wetlands and their management. Implementation of the Convention in India is somewhat complicated by the fact that not all the Ramsar sites are designated Protected Areas.

There exists a strong partnership between the GoI and WWF-India's Wetlands Cell in the implementation of the Ramsar convention. Towards fulfilling the requirement of a National Policy integrating wetland conservation in land use policy, the WWF drafted a white paper on a National Wetland Policy in 1994. A draft on National Wetland Policy was also prepared by the Bombay Natural History Society, a research institution, in 1997. Subsequently, a separate organization – the Indira Gandhi Institute of Development Research - was mandated by the MoEF to prepare the Wetlands Policy and National Action Plan. This was completed in 1998, and was discussed at a consultative meeting called at the WWF that same year. After this consultation, the authority decided to not adopt the policy, instead opting to call it a 'strategy', and later 'guidelines'. It is interesting to note that while it is supposed to constitute a policy statement in itself, the document states that it *will be* necessary to coordinate the policy with others such as the National Land Use policy, the Agricultural Policy Statement and the National Forest Policy.

National Committees for Wetlands and Mangroves were constituted in 1988. These were amalgamated into a single Committee for Wetlands, Mangroves and Coral Reefs in 1992 and have recently been constituted separately again. However the functioning of this committee is irregular and is apparently rarely of a substantive nature. There also exists a National Wetlands Programme wherein 27 wetlands of national importance have been identified, and there are special allocations from the Central Government for the preparation of management plans. It is



notable that this is arose at the initiative of the Indian government itself, such a designation of important wetlands is not a requirement under Ramsar.

The main difficulty in the implementation of the Ramsar convention is the lack of management capability and organizational structure at the site level. Most Ramsar sites are under the jurisdiction of state governments, at which level there is no functioning arrangement to deal with wetlands issues. The immediate responsibility for management of the sites falls to revenue, forest or fisheries departments, who are usually unaware of the special requirements of wetland management. A workshop aimed at managers of wetlands was organised in 1995 by WWF –India, but this remains a one-time effort which will have only limited value since wetland managers are regularly transferred. Such a training and orientation effort ought to be taken up by the GoI, but remains a lacuna so far.

The National Wetlands Policy flows, to some extent, from the stated partnership between Ramsar and the CBD at the international level. The guidelines for the preparation of the Policy included a consideration of obligations under different international conventions. The policy is meant to be implemented over a period of 12 years, so as to facilitate synchronisation with the work of the CBD and Ramsar conventions, and to ensure coordination with the national planning process in India. However, this is the only mention of coordinating the two conventions in this policy statement.

### **United Nations Framework Convention on Climate Change**

India signed the FCCC on 10 June 1992 and was the 38th country to ratify it on 1 November 1993. Obligations to countries under the convention are primarily to undertake measures to reduce anthropogenic GHG emissions, and prepare for adaptation to the impacts of climate change. In a more specific sense, countries are obliged to prepare and update regularly inventories of anthropogenic emissions and national and regional programmes on measures to mitigate climate change.

There is no particular or comprehensive legislation dealing with climate change. Given the nature of the problem of climate change, such legislation is neither called for nor required. Institutions dealing with climate change and related issues in India are fairly wide ranging. A separate Ministry for Non –Conventional Energy Sources, created in 1991, constitutes one of the largest programmes dealing with renewable energy in the world. Improved energy efficiency, population control, and persistent large scale afforestation are already stated as high priority areas by the GoI in the context of climate change mitigation measures.

The MoEF, in this case also the focal agency for the implementation of UNFCCC, has constituted a ‘Working Group on the FCCC’ to deliberate upon measures and positions that should be taken regarding the various issues emerging out of the climate change negotiations. A separate group on the Kyoto mechanisms has also been constituted.

The Asia Development Bank undertook the Asia Least-Cost Green house Gas Abatement Strategy (ALGAS) project in the first half of the last decade. The report was completed in 1994, and included an inventory of national GHG emissions prepared by the National Physical Laboratory. This was the most recent national inventory of GHG emissions carried out. The first National Communication has not yet been prepared, though the proposal for funds for this activity has been recently cleared by GEF and the Steering Committee has recently been constituted. The project outline points out that land use change, forestry and other sectors have not been considered in the previous inventories and that the National Communication will

develop information on impact and adaptation in these sectors. The project outline envisages three activity areas: GHG inventory, Capacity building, and Steps to implement the convention.

A special Task Group on the Pilot Phase of AIJ (activities implemented jointly) is also operational. This is a mechanism to consider and recommend bilateral and multilateral projects aimed at reduction of GHGs, elucidation of the methodology for monitoring and tracking of GHGs, and addressing the question of sharing benefits. One AIJ project is operational in India, and four others have been approved.

The other major mechanism under the FCCC, the Clean Development Mechanism is currently the subject of intense discussion in the international arena. There are as of yet no CDM projects ongoing in India. The Tata Energy Research Institute (TERI), based in Delhi, is one of the most active NGOS in the field of Climate Change in the country. TERI is home to a long standing programme researching climate change, and regularly issue information bulletins and position papers on the convention. In conjunction with a Canada based think tank, TERI have recently published an analysis of the possibilities for Clean Development Mechanism project opportunities in India and other countries of the South Asian Region.

TERI also is home to a four-year old programme studying impacts of climate change on various sectors and adaptation to such change. This work is independent of the FCCC obligations, and is now benefiting from the improved methodologies to study impacts.

While there is no explicit coordination with the other MEAs, it is asserted that there is active informal consultation with the MoEF officials involved with other conventions at all stages of implementation and in the course of taking positions at the Conferences of the Parties (COPs). An official of the MOEF dealing with the FCCC also holds separate charge of issues relating to Forestry and Land Use. At another level, the impacts of climate change on sectors such as land use, forestry and coasts are to be considered as part of the National Communication. For assessing and adapting to the impact of climate change on natural ecosystems, it is envisaged that there will be active collaboration with the ongoing BSAP project.

### **Convention to Combat Desertification**

India signed the CCD in 1994. It was ratified in December 1996 and came into force the following year. Obligations to parties to the CCD are once again of a differentiated nature. Developing countries, and those facing the problem of desertification are placed with obligations different from developed nations, or those not facing the problem. The CCD is to be implemented through national and regional action programmes prepared by countries and cooperating regions.

The Ministry of Environment and Forests is once again the focal point in India for the CCD. The issue of desertification also encompasses the work areas of the ministries of agriculture, rural development, health, water resources, social justice, non conventional energy sources and human resource development. An understanding of how the activities under the jurisdiction of these ministries impact desertified areas pervades the national report to COP4. It may be expected then that strong inter ministerial coordination might then be present in the further implementation of the CCD.

The National Action Programme is currently in the final stages of preparation. A national level steering committee of 20 members has overseen the work of preparing this NAP. Headed by the Special Secretary of the MoEF, the committee comprises representatives from various associated ministries, heads of research institutions and NGOs, among others. The mandate of this committee also extends to ensuring inter-ministerial coordination in the implementation of the NAP. The NAP has been prepared by four working groups, each with a composition similar in

nature to that of the national steering committee. In addition, these working groups involve representatives from the states most affected by desertification. These working groups have prepared components of the NAP dealing with:

- a) Monitoring and Assessment and Early Warning Systems
- b) Sustainable Land Use practices for combating desertification
- c) Local Area Development Programmes, and
- d) Policy and Institutional Framework

The detailed and careful composition of the NAP working groups contains a promise for the action points emerging to have taken into account necessary cross-sectoral linkages. Noting the presence of numerous cross sectoral policies (EAP, NCS), the NAP team has stated that the focus of the NAP will be priorities stated in Article 10 of the CCD, e.g. building institutions and capacity at the grass root level, promoting alternative livelihoods etc. Existing institutions dealing with environmental and desert-related issues: the National Land Use and Conservation Board, the Department of Wasteland Development (earlier the National Wastelands Development Board), and the National Afforestation and Eco-Development Board, the Drought Prone Area Programme and the Desert Development Programme) are being reviewed as part of the NAP process to determine their effectiveness in combating desertification at the local and national levels. A network of NGOs RIOD-India (International NGO Forum on drought and desertification) are already engaged in publicity and on the ground activities related to the convention.

An extensive programme of review of the NAP across various sectors was to take place in March 2001. Two regional workshops to discuss the NAP, involving a range of stakeholders, are also planned for April 2001. These will be in the South and the North & West regions, those parts of the country most affected by desertification at present.

Another component of the implementation of the CCD is the establishment of a regional action programme in Asia. The RAP is in the nature of a framework of cooperation between countries in the region and as a support structure to the NAPs (preparation and implementation) The RAP in Asia is being operationalised through the establishment of six Thematic Programme Networks, India being responsible for the TPN on “Agroforestry and Soil Conservation in arid, semi-arid and sub humid areas”. The chief nodal agency for TPN in India is the Central Arid Zone Research Institute (CAZRI). The TPN will be structured as a network of the participating institutions at the national level, and at the regional level. Many of these institutions have been identified, but the activities of the TPN have not taken off as yet- the plan of work has only been decided in very broad terms.

Coordination with the other conventions has not taken place yet. The NAP team is aware of the need for this, and the draft NAP apparently contains a section on the synergies with other conventions that must be built on. This remains at a largely conceptual stage, in tune with the NAP which seeks to lay out a broad plan of action, the more detailed recommendations arising in a second phase of the NAP preparation. Complementarities are envisaged with the CBD for Dryland Biodiversity, and with the FCCC on questions of afforestation.

### **Convention on Migratory Species:**

India signed this convention in 1983. There are no legislative requirements under this convention, it constitutes a mostly moral binding on the parties to have adequate measures in place for the conservation of endangered migratory species. Such legislation in India is provided by the WLPA, and according to the focal point of the CMS in India- a Deputy Inspector General of

Forests (Wildlife)- all measures to protect Migratory species in India are being smoothly carried out.

Parties are enjoined to conclude agreements for the management of certain species. India is a part of the Agreement on the Siberian Crane, with attendant responsibilities in the monitoring and breeding of Siberian Cranes at the Keoladeo National Park. There are no attempts known of to coordinate the implementation of the CMS with the other conventions. This may be pending progress on the CBD COP V Decision V/21 “ *to develop a proposal on how migratory species could be integrated into the work programme of the Convention on Biological Diversity, and the role the Convention on Migratory Species could play in the implementation of the Convention on Biological Diversity with regard to, inter alia, the ecosystem approach, the Global Taxonomy Initiative, indicators, assessments and monitoring, protected areas, public education and awareness, and sustainable use, including tourism*”.

### **World Heritage Convention :**

The World Heritage Convention encourages states to nominate cultural and natural properties within its jurisdiction for inclusion on the World Heritage list, and thereto to take measures to preserve these sites. Measures include the articulation of a policy or legal instruments for protection of Heritage sites and establishing a system of protection of the sites where these do not exist and adopting a policy that gives the site a place in the life of the local community.

There are five natural properties in India nominated as World Heritage Sites. These are already under the Protected Area system, and as such management arrangements were in place in these sites before nomination as WHS. The focal point for the WHC as a whole in India is the Indian National Commission for Cooperation with UNESCO, placed in the Ministry of Human Resource Development. The focal point for natural properties for the WHC is the Deputy Inspector General (Wildlife) in the MoEF. Requests for nominations submitted to the WHC Bureau are prepared initially at the level of the States, by the Forest Department personnel responsible for conservation at that level.

The Delhi UNESCO office provides support – technical and financial to the extent possible- to the Indian National Commission or to the individual World Heritage sites on request. A few years ago a workshop was held to orient the managers of World Heritage sites, but this has not been repeated.

### **Regional agreements and/or mechanisms to co-ordinate application of global agreements**

Two agreements related to biodiversity that India has entered into could be described as regional in nature. The first of these is the South Asia Cooperative Environment Programme.

#### **The South Asia Cooperative Environment Programme:**

This programme arose as an offshoot of SAARC (South Asian Association for Regional Cooperation), following from a meeting of the ministers of nine Asian countries in 1981. The programmes and policies of the SACEP are set at the level of the Governing Council, which is a ministerial level body. Implementation responsibilities are shared by the Consultative Committee, and the SACEP Secretariat, both of which are headquartered in Colombo. SACEP was set up with a stated aim to work closely with UNEP for environmental conservation in the South Asian region.

One of the main activities of SACEP has been related to the South Asia Regional Seas Programme. The South Asia Seas were nominated as part of the UNEP's Regional Seas Programme in 1983, and SACEP prepared proposals for action on six priority areas within this field. An Action Plan on this issue was to follow, but there is no indication if this was prepared. Other stated programme areas include declaration of the 'Year of the Tree' for South Asia, conservation of mangrove, coral and island ecosystems, EIAs and cost benefit analysis, coordinated EE programme, and coordinated action on desertification. Fourteen other subject areas had been identified for the 1992-1996 period, and a State of the Environment report for South Asia was due to be published in 1995. A SACEP Environment and Natural Resources Information Centre is also established in Bangkok, and forms part of the UNEP Regional Environment and Natural Resources Information Network. This facility based in Bangkok is to provide capacity building, GIS and database services to the member countries.

A programme on environmental law in South Asia was enabled in 1995. The aim of this programme was to strengthen the information available to the judiciary to enforce environmental legislation. In 1997, a workshop was conducted in the Maldives on Strengthening Legal and Institutional Arrangements for Implementing Major Environmental Conventions. A National Focal Point and Priority Programme Areas were apparently identified in India following this symposium.

A SAARC Technical Committee on Environment also exists. It has a broad ranging agenda, and has on occasion discussed issues surrounding the FCCC. The operationalisation of agendas laid out by the technical committee are not known however.

India hosted a conference in 1994, in association with SAARC and ASEAN, where the countries of the South and South East Asian region met to discuss the priorities arising from the Biodiversity convention in the region. There was no further action on the issue after this conference.

### **The Global Tiger Forum:**

The Global Tiger Forum came into existence as a result of recommendations made at two international symposia held at New Delhi in 1993. An informal first meeting of the tiger range countries was held in 1994 at New Delhi attended by 11 tiger range states and others, and the Global Tiger Forum (GTF) was then formed with a secretariat at New Delhi in the MoEF. Membership of GTF is open to all tiger range countries, non tiger range countries interested in tiger conservation, international non-governmental organizations, and honorary individual members. It is essentially a moral convergence, somewhat akin to the other conventions, and is not legally binding upon members in any way.

The long term goals of the GTF are to revise baseline estimates of tiger poaching and populations, and to seal the illegal trade in tiger parts. To this extent, it works in consonance with CITES, but also holds some positions at variance with the CITES position. The GTF secretariat is working in collaboration with the division of international conventions at UNEP to help develop the linkages of this exercise with the various conventions.

The main activities undertaken by the Global Tiger Forum so far are:

- i) Developing protocols on trans-border movement of tiger parts: such protocols exist between India and China, India and Nepal, and China and Russia. Negotiations for a

protocol between India and Bangladesh are at an advanced stage. The basic elements of these protocols are:

- a. Country conservation programmes are not injurious to each other
- b. Regular dialogue on conservation issues can take place with minimal delays emanating from MEA requirements.
- c. Training and visits between countries
- d. Commonality of approach in controlling cross border trade is to be attempted.
- e. Regular exchange of information

These protocols are proving to be useful as can be seen from China's agreement to restrict its captive breeding programme only for rehabilitation in the wild rather than to meet the demand for tiger parts. Nepal has agreed to take steps to control trade in certain species of plants that are endangered in India. These species could earlier pass through Nepal unimpeded.

- ii) Updating of tiger action plan giving physical & financial details & prioritization of types of works; activating rane states in preparation of the Tiger Action Plan.
- iii) Supporting training and workshops on wildlife management/enforcement training in Vietnam, Bangladesh, India, Myanmar, and Nepal
- iv) Supporting programme of survey and data collection

#### IV Lessons learnt from country experience :

##### 4.1 Problems identified in coordinating national implementation of biodiversity related conventions:

- a) Constraints upon the designated focal points at the national level:
  - a. the principal focal points for the conventions are often at the level of joint secretaries (senior officers of the Indian Administrative Service) in the MoEF. These focal persons are often on time-bound postings and are unable to institutionalise a system of coordination with the other focal points
  - b. the officers functioning below this level, who are technical employees of the GoI/MOEF and in more permanent positions, are often dealing with several programmes of the MoEF, related to or independent of the conventions. Their duties include researching and presenting the national position in the conventions, and dealing with all domestic issues relating to the conventions, in addition to overseeing numerous institutions and initiatives that are independent of the conventions. They are thus unable to make the time to actively coordinate with the focal persons of the other conventions.
- b) The thrust areas of the various conventions are different from each other. This has been cited as a constraint in relation to being able to coordinate the implementation of the various conventions. While almost all conventions call for national reports and the enactment of legislation or policy statements, the content of these can be considered to be in somewhat separate spheres. E.g. CITES and Ramsar do not have many complementarities. On the other hand, Ramsar and CBD may have significant complementarities as they are both centered on the wise use/sustainable use concept. However, complementarities in implementation are not made explicit in any of the policy statements or plans of action articulated by the GoI. In some cases, identification of complementarities or a coordinated course of action at the international level might aid

the harmonization of activities at the national level (e.g., CMS and CBD). Some coordination between the Ramsar and CBD focal points takes place, which follows from the general directive at the level of the conventions providing for the biodiversity aspects of wetlands for the CBD to be shared with the Ramsar focal point.

#### International Conventions in the NBSAP:

The NBSAP process currently under way has fourteen thematic working groups evolving action plans for biodiversity conservation as it pertains to that particular theme. One of these is a working group on Laws, Policies and Institutions. This working group is concentrating its analysis of biodiversity related legislation in the country to the relationship and rights of local communities with the state. At the same time, all fourteen thematic working groups are mandated to look into international issues and agreements pertaining to that theme affecting biodiversity conservation. This will mean that treaties other than the CBD will be addressed. As most of these working groups have not begun the drafting of the plan in full earnest, it is not yet clear which conventions are being considered, and to what depth. It is likely that the task of coordinating the analyses of international issues will fall to the Technical and Policy Core Group drafting the final national action plan.

A comprehensive paper on international issues confronting Indian biodiversity was also commissioned. This paper is to provide a frame of reference to all the executing agencies preparing SAPS, and is to include an analysis of international conventions and obligations and issues for India arising therefrom. A draft of this has been received, but it has been felt that the level of analysis in this paper needs to be intensified. It is also possible that a sub thematic review on the overlaps and relationship between the FCCC and CBD, and efforts therein, will be commissioned under the NBSAP.

#### 4.2 Best practice drawn from national experience in trying to meet the country's obligations under multiple biodiversity conventions

- a) While there might not be much coordination at the national level, at the field level there is considerable opportunity for coordination as the same sites are designated under different conventions. E.g., Keoladeo National Park is a Ramsar site, a World Heritage site and the locus of activities under the Convention on Migratory Species.
- b) There is a consolidated service - the IFS- with the responsibility of managing on the field most of the convention related sites: this has the possibility to provide for continuity in management. The conservation success at these sites, it has to be recognised, depends on many other factors in addition to continuity in the management service.
- c) An Environment Action Programme and National Conservation Strategy have been articulated during the last decade and a half, dealing with many aspects of the issues raised in the biodiversity related conventions. While there is considerable scope for harmonizing the various conventions in such consolidated policies, the current status of implementation of these strategies and programmes leaves much to be desired.

#### V Conclusions:

The aim of this exercise was to better understand the implementation of different international MEAs at the national level, so as to aid the implementation of the CBD and the preparation of national documents mandated under article 6 of the CBD. As can be seen from the foregoing, there are differing levels of implementation for the different conventions. The older conventions are somewhat better realized (though specific measures for the Convention on Migratory Species

seem lacking). At the same time, it must be noted that the arrangements for implementation are not satisfactory in India. Many lacunae in the legal, practical, and on field arrangements remain. A listing of these lacunae is fraught with uncertainty as a comprehensive investigation at the field level would be required, and each set of stakeholders is likely to have a differing opinion on the most urgent needs. It was not possible to conduct such an inquiry during this project as the main focus was on the harmonisation of the different conventions.

The measures taken in response to the MEAs are generally in keeping with the directives of the particular convention. There is considerable activity in instances even when it is not specifically mandated by the conventions, e.g. the Framework Convention on Climate Change. In the case of the CBD, activity began before the convention had been ratified by India, and though it suffered due to political instability for some years during the past decade, it has been proceeding apace.

The main activity under the CCD- the preparation of the national action plan- is a similarly dynamic process. It is commendable that in the general national measures for implementation of the MEAs, vigorous attempts are always made to include the various ministries other than the MoEF, as well as to include experts from research and academic institutions, and to incorporate opinions from the non-governmental sector. The process of drawing up the proposed Biodiversity Legislation under the CBD involved two extensive national consultations, a novel step for the development of legislation in India. The proposed Biodiversity Bill and the Plant Varieties Protection Act are both being presented to the public and depositions being received on the contents of the possible legislations

There are no regional agreements or mechanisms specifically set up to implement the MEAs, though India was in the forefront of one such attempt under the auspices of SAARC some years ago. An initial meeting in this regard has unfortunately not been followed up with an active programme. The Global Tiger Forum, with its secretariat currently in India, is an active organization undertaking many activities in the South Asia region. While the focus of this programme is undeniably on the tiger, it is a significant contribution to biodiversity conservation in the region in that it engenders trans-boundary dialogue on PA issues.

It is difficult to glean recommendations for best practice in implementing MEAs, as it is difficult to make the assertion that attempts at biodiversity conservation have been successful. Nonetheless, it can be said that commendable advances with regards to implementation have been made in India. These include the advances in legal arrangements, the participation of numerous existing institutions in implementation efforts (such as inventory for FCCC, coordination of the regional programme under CCD), and the processes in which a wide range of opinions and experience are garnered.

While there is some effort toward coordinating the implementation of MEAs, the tangible results, or even mention of this effort, are hard to come by. It appears that most of the coordination takes place in an informal manner, between the different focal points for the MEAs.

The NBSAP currently in preparation in India is making efforts in the direction of harmonizing the MEAs in the recommendations that are finally drawn up. This is in the form of each of the thematic working groups being asked to consider international issues and relevant agreements as part of the concerns relating to biodiversity conservation in their thematic area. The composition of the thematic working groups is thoroughly cross-sectoral, and it is expected that a range of opinions will be meaningfully worked into the resulting action plan. A paper outlining the international issues acting on India Biodiversity is under preparation, and it is hoped, will serve as guidance to the various groups involved in drawing up SAPs on matters related to international



conventions. Some confusions/ disharmonies between the MEAs in India will continue to exist, especially as the scope of the MEAs are not necessarily overlapping. In some cases, the provisions of a convention might present some contra-indications to the objectives of the CBD, e.g., the concern that the emphasis on plantations as carbon sinks under the FCCC might conflict with the conservation of old growth areas. It might then be necessary to have clarity on such interfaces at the international level before meaningful harmonization can take place at the national level.

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## Abbreviations:

- CBD: Convention on Biological Diversity  
MEAs: Multilateral Environmental Agreements  
UNFCCC: United Nations Framework Convention on Climate Change  
CCD: Convention to Combat Desertification  
CITES: Convention on International Trade in Endangered Species of Wild Fauna and Flora  
MoEF: Ministry of Environment and Forests  
GoI: Government of India  
NBSAP: National Biodiversity Strategy and Action Plan  
SAP: Strategy and Action Plan  
CMS: Convention on Migratory Species

NGOs: Non-governmental organisations  
IFS: Indian Forest Service  
EAP: Environment Action Programme  
NCS: National Conservation Strategy  
WWF India: World Wide Fund for Nature India  
WLPA: Wildlife (Protection) Act  
GHG: Greenhouse Gas  
TERI: Tata Energy Research Institute  
AIJ: activities implemented jointly  
BSAP: Biodiversity Strategy and Action Plan  
NAP: National Action Plan  
WHC: World Heritage Convention  
UNESCO: United Nations Educational Scientific and Cultural Organisation  
SAARC: South Asia Association for Regional Cooperation  
SACEP: South Asia Co-operative Environment Programme  
UNEP: United Nations Environment Programme

**List of persons interviewed:**

Dr. G. V. Sarat Babu, Additional Director, MoEF.  
Dr. T. Chandini, Joint Director?? MoEF.  
Dr. Sujata Arora, Joint Director, MoEF.  
Dr. Anmol Kumar, Deputy Inspector General of Forests, (Wildlife)  
Bina Bahri, Under Secretary, MoEF  
Ulka Kelkar, TERI  
K.N. Thakur, Deputy Director, Northern Region, Indian Forest Service, MoEF.  
Arul Mehta, Deputy Secretary, MoEF  
S.C. Dey, Secretary General, Global Tiger Forum.  
S. Vidya, Wetlands Cell, WWF-India,  
Dr. Parikshit Gautam, Wetlands Cell, WWF-India  
Ashok Kumar, Wildlife Trust of India  
Pushp Jain, TRAFFIC-India  
Kasturi Mukhopadhyay  
Sudha Mendiratta, National Officer in Ecological Sciences (UNESCO India Office)

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## India's NBSAP Process

The preparation of the NBSAP in India is a two year process that was begun in early 2000. The NBSAP is being prepared in a decentralised and participatory manner. Technical execution of the project has been handed out to an NGO, Kalpavriksh, which has set up a 15-member Technical and Policy Core Group (TPCG) of experts and activists from various fields and parts of India. Administrative coordination is being done by another larger agency, the Biotech Consortium of India Ltd.

In a departure from established norm, the planning is starting from several decentralised sources. About 20 local micro-planning processes at village to district levels, 33 state and union territory level processes, 10 planning exercises for ecological regions cutting across states, will bring a variety of area-specific information and perspectives. In addition, national working groups are preparing action plans on 14 themes. Key elements of each of these plans will form the base of the national level plan, which will be written at the end. Each of the plans can however be pushed for implementation as soon as ready, independent of the national plan. The entire exercise is supposed to end by mid-2002.

Participation in all aspects of planning forms the hallmark of the NBSAP process, and inputs from the range of stakeholders is being sought. This is done first by having the plan prepared at different levels. Public hearings, balanced steering committees and working groups, use of local languages and inviting participation of all sectors form part of the prescribed methodology for developing action plan. A Call for Participation has been published in 18 vernacular languages as one step towards this. There have been over 300 responses to this call so far.

The NBSAP aims to build on rather than duplicate the considerable efforts for biodiversity conservation in India- including the Protected Area system, numerous research and awareness raising building efforts and institutions, and in more recent years efforts like that of Joint Forest Management. It also seeks to link up with the numerous processes for conservation in India - in both the development and implementation stages, to encourage the involvement of all sectors in planning for biodiversity conservation. The most critical challenge that the exercise faces is to suggest creative ways to influence current development planning and budgeting. Such inter-sectoral coordination of biodiversity also remains a matter of concern for the CBD as a whole.

While the NBSAP is not yet nearing implementation, there are lessons to be gleaned for plan preparation. These include the need to clarify the NBSAP as a *planning* process, the need to closely monitor and interact with the various agencies, the fact that outreach does get stakeholders to participate, and that government support and engagement is essential. At the same time, some groups might need assistance in order to participate effectively in the NBSAP, and in some areas the conventional model of centralised decision making threatens to dominate. Where the concept of participation is manifestly new, participation and public hearings may only achieve some sympathy to the idea of needing to consult those dependent on and most closely involved with biodiversity. The effort to link up with ongoing activities has been useful for the NBSAP process: some partnerships on specific issues have ensued, and awareness of ongoing projects has led to some alterations in the workplan of the NBSAP as well. It appears that the local area plans are likely to give direction to conservation activities, as many of them have been initiated by organisations already active in the area. Thus, according to one such organisation "Preparing the local action plan will give greater direction to work we might have done in any case".

While it is too soon to know whether the level of participation envisaged for the NBSAP will be achieved or not, or what shape the implementation of the action plan will take, it can safely be said that the NBSAP process will provide important lessons on how to conduct a participatory planning exercise in a country such as India.