



Discussion Document
**Legislative complementarity and harmonisation of
biodiversity-related multilateral environmental agreements**

For:

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1. Introduction

"Over the years we have seen a proliferation of conventions, agreements and memorandums of understanding (MOUs) covering everything from migratory birds to regional seas. If we can streamline the way these many conventions and agreements operate, then there could be substantial savings. Some experts have suggested up to 40 per cent of the current costs or several million dollars. The winners here will be the world's wildlife".

(Klaus Toepfer, UNEP's Executive Director)¹

The need to improve the co-ordination and integration of different international legal regimes addressing biological diversity is increasingly being recognised. For the last thirty years, international agreements have been negotiated in relative isolation, and the institutional arrangements and implementing activities they set up have not facilitated a co-ordinated approach in their implementation by the countries Party to those conventions. The result of that piecemeal approach has been fragmentation in the design and application of legal and policy instruments at both the national and international level.

National biodiversity planners, focal points and other government officials and agencies responsible for implementing international agreements related to biodiversity currently face the challenge of having to comply with overlapping, and sometimes conflicting, international obligations. This situation affects developed and developing countries alike.

This report² highlights and analyses key areas of overlap and synergy between the CBD and other biodiversity-related conventions. Background information on all the conventions covered is provided in the Annex (Information Document). This paper is part of a project on *Legislative Harmonisation: Meeting the requirements of the Convention on Biological Diversity (CBD) and other Multilateral Environmental Agreements*, under UNEP/UNDP/GEF Biodiversity Planning Support Programme (BPSP). The project objectives are:

- To facilitate a harmonised, integrated and cost-effective approach to implementing the CBD and other biodiversity-related conventions at the national level;
- To contribute to improving policy, legal and administrative co-ordination at national level in order to comply effectively with international obligations;
- Publication and dissemination of a set of best practice guidelines on co-ordinated implementation of biodiversity-related conventions at national level targeted at biodiversity planners.

This report focuses on identifying and addressing synergies and gaps between international biodiversity regimes, with a view to assisting biodiversity planners, and other national authorities, with the implementation of the Convention on Biological Diversity (CBD) at the national level. In particular, the scope of this paper covers key linkages between the CBD and the following global biodiversity agreements: the Convention on International Trade on Endangered Species of Wild Fauna and Flora (CITES); the

¹ 'Streamlining Biological Conventions Could Save Millions Of Dollars For Conserving World's Wildlife', Press Release, 15 February 2001. See at:

<http://www.unep.org/Documents/Default.asp?DocumentID=192&ArticleID=2772>

² An earlier version of this report (the Discussion Draft), together with the annexed Information Paper, were discussed at an international workshop on 'Legislative complementarity and harmonisation of biodiversity-related multilateral environmental agreements', held in London on 21-23 May 2001. Comments and feedback received from workshop participants have been incorporated in the final outputs of this BPSP/FIELD project.

Convention on Migratory Species (CMS); the Ramsar Convention on Wetlands of International Importance; and the World Heritage Convention (WHC)³. UNESCO's Man and the Biosphere Programme (MAB) is also included⁴.

This project aims to provide national authorities with a useful tool to help them tackle the implementation of biodiversity-related MEAs in a co-ordinated way. This report and the annexed 'Information Document' include an overview of each of the agreements listed above and a description of the main synergies and areas of overlap among them. A separate Synthesis Report provides a summary and quick reference guide to the main obligations for Parties under the seven key areas identified in this paper. The Synthesis Report also includes a checklist of main issues/suggestions for biodiversity planners so they can look at the implementation of their obligations across conventions and adopt an 'issue-based approach'.

The main obligations for Parties under the biodiversity-related agreements and processes have been divided in seven areas:

- planning;
- legislative measures;
- institutional framework;
- information exchange;
- reporting;
- public education and awareness; and
- public participation.

Complementarities and gaps are identified but no 'one-fits-all' solutions are suggested. For each of these seven sections, the Synthesis Paper includes relevant examples of how some or all of the five countries⁵ studied in detail have dealt with, or are tackling, these issues. These 'national examples' are closely linked to the specific legal and political systems and circumstances of the country, but are nevertheless useful in illustrating different approaches to the issue of how to effectively fulfil international obligations arising from biodiversity-related conventions.

³ For reasons of convenience, this report and its annex use 'WHC' as abbreviation of the World Heritage Convention. (NB. UNESCO uses WHC as the acronym of the 'World Heritage Committee').

⁴ The Annex to this report includes also information on UNEP's Regional Seas Programme, the UN Framework Convention on Climate Change and the Convention to Combat Desertification, and some of their key linkages with the CBD and other biodiversity-related agreements. This Discussion Document focuses on the global biodiversity conventions as a starting point to addressing co-ordinated implementation of national obligations related to biodiversity protection and sustainable use.

⁵ Five case studies (Cuba, Hungary, India, Kenya and Peru) were commissioned as part of this project. The case studies are also available as separate outputs of this project.

2. Towards legislative harmonisation and improved implementation of the CBD and other biodiversity-related conventions: Key issues

This chapter focuses on the legislative, policy and administrative measures that Parties to the CBD and other biodiversity-related conventions should adopt at national level to comply with their international obligations under these conventions. Attention is drawn to the linkages between conventions and how to harmonise these legal and policy measures to avoid duplication of efforts and improve effectiveness in the national implementation of biodiversity-related conventions.

This section focuses on the following issues: (i) biodiversity planning, including related issues such as protected areas and species protection; (ii) legislative measures, including environmental impact assessment; (iii) the institutional framework; (iv) information exchange; (v) the reporting process; (vi) public education and awareness; and (vii) public participation - all from a national perspective.

2.1 Biodiversity Planning

The CBD translates its guiding objectives into binding commitments in the substantive provisions contained in Articles 6 to 20. However, the CBD mostly provides for goals and guidelines and therefore there are few precise obligations placed upon the Parties. In addition, most of these commitments are qualified, as their implementation will depend upon the particular national circumstances and priorities of each Party, as well as on the resources available to them.

The most important obligations for CBD Parties, from the perspective of legal co-ordination and harmonisation with other related conventions, are listed below. Although Article 6 provides the main obligation for Parties regarding biodiversity planning, national action under the other articles below can also be integrated in national biodiversity strategies and action plans.

- Article 6, on ‘*General measures for conservation and sustainable use*’ of biodiversity, urges Parties to develop national biodiversity strategies, plans or programmes, and to integrate the objectives of the convention into ‘relevant sectoral or cross-sectoral plans, programmes and policies’. Other obligations for CBD Parties that are relevant for this paper are:
- According to Article 7 (Identification and monitoring), Parties need to identify the components of biological diversity important for its conservation and sustainable use.
- Under Article 8 (In-situ conservation), Parties must:
 - Set up a system of protected areas and regulate biological resources within and outside these areas; as well as promote sustainable development in neighbouring areas;
 - protect ecosystems and natural habitats;
 - restore degraded ecosystems and promote the recovery of threatened species;
 - ‘respect, preserve and maintain’ traditional knowledge associated to biodiversity;
 - regulate the protection of threatened species and populations;
 - regulate or manage processes and activities with significant adverse effects on biodiversity.

- According to Article 10 (*Sustainable use of components of biological diversity*), CBD Parties should:
 - integrate biodiversity conservation and sustainable use concerns into decision making;
 - adopt measures to avoid or minimise adverse impacts on biodiversity derived from the use of biological resources;
 - protect and encourage the customary use of biological resources when those practices are compatible with conservation and sustainability requirements; and
 - encourage co-operation with the private sector ‘in developing methods for sustainable use of biological resources’.
- Article 11: All Parties must adopt economic and socially sound measures that act as incentives for the conservation and sustainable use of components of biodiversity.
- Under Article 13, Parties have also a duty to promote and encourage understanding of the importance of biodiversity conservation and of the measures this requires. They should co-operate with other countries and international organisations in developing educational and public awareness programmes related to the conservation and sustainable use of biodiversity.
- Article 14: Parties must introduce procedures requiring environmental impact assessment of proposed projects that are likely to have significant adverse effects on biodiversity. In addition, they must introduce arrangements to ensure that the environmental consequences of their programmes and policies that are likely to have significant adverse impacts on biodiversity are duly taken into account.
- Article 15 requires Parties to facilitate access to their genetic resources by other Parties. This access should be for an environmentally sound use of those genetic resources, and based on mutually agreed terms. Parties should also take legislative, administrative or policy measures with the aim of sharing the results of research and development, and the benefits arising from utilisation of the genetic resources with the Party or origin. This benefit sharing must be upon terms mutually agreed by the Parties involved⁶.
- Article 16: CBD Parties must introduce legislative, administrative or policy measures so that Parties which provide genetic resources, especially developing countries, should be provided with access to and transfer of technology that makes use of those resources, including technology protected by patents and other intellectual property rights. This access should be provided on mutually agreed terms⁷.
- Under Article 26, CBD Parties must submit reports to the CBD COP detailing the measures that they have taken to implement the CBD provisions, as well as their effectiveness in meeting the objectives of the Convention.

⁶ This report does not include an analysis of Articles 15 and 16 as they do not overlap with obligations under other biodiversity-related conventions. They are included in this list as their implementation directly relates to achieving one of the three objectives of the CBD. For further information, see ‘*Preparing a National Strategy on Access to Genetic Resources and Benefit-Sharing*’, a pilot study by Kerry ten Kate & Adrian Wells, Royal Botanic Gardens, Kew. See at http://www.undp.org/bpsp/thematic_links/docs/ABS_Manual_RBGK.pdf

⁷ Id.

2.1.1 CBD: NBSAPs

- One of the most important provisions concerning Party obligations is contained in Article 6 of the Convention, on the need to develop national biodiversity strategies, plans or programmes (NBSAPs). The COP has provided specific additional guidance to Parties in relation to Article 6:

CBD COP guidance on developing NBSAPs⁸

Parties have been encouraged to:

- take into account guidelines such as those provided in National Biodiversity Planning published by UNEP, World Resources Institute and IUCN, when preparing and implementing their national strategies and action plans to collaborate with relevant organisations [Decision II/7, para.5];
- include in their national plans, strategies or legislation: measures for in-situ and ex-situ conservation; sectoral integration of biodiversity considerations; and equitable sharing of benefits from the use of genetic resources [Decision III/9, para.2];
- set measurable targets to achieve biodiversity conservation and sustainable use objectives [Decision III/9, para.5]; and
- to ensure that the conservation and sustainable use of wetlands, and of migratory species and their habitats, are fully incorporated into national strategies, programmes and plans [Decision III/21, para.8].

The COP has also stressed the need for cross-border co-ordination of national strategies and the importance of regional and international co-operation for implementation of Article 6 [Decision II/7, paragraph 2; Decision III/9, para.1].

Implementation of Article 6 was the focus of the first national reports by Parties, which had to be submitted by 1 January 1998 [Decision III/7, para.11]. The COP also requested Parties to integrate elements of all the thematic work programmes into their national strategies and sectoral plans.

- COP guidance for NBSAP development has identified the following priorities⁹:
 - Projects and programmes that have national priority status and that fulfil the obligations of the Convention;
 - Development of integrated national strategies for the conservation of biological diversity and the sustainable use of its components;
 - Strengthening the conservation, management and sustainable use of ecosystems and habitats identified as priorities by national Governments in accordance with Art.7;
 - Identification and monitoring of wild and domesticated biodiversity components, in particular those under threat, and implementation of measures for their conservation and sustainable use;
 - Capacity-building, including human resources development and institutional development and/or strengthening, to facilitate the preparation and/or

⁸'Handbook of the Convention on Biological Diversity', CBD Secretariat, Earthscan, 2001. An electronic version is available at <http://www.biodiv.org/handbook/>

⁹Hagen (1999), BPSP 'A Guide for Countries Preparing National Biodiversity Strategies and Action Plans', in: http://www.undp.org/bpsp/nbsap_guidelines/guides.htm

- implementation of national strategies, plans for priority programmes and activities for conservation of biological diversity and sustainable use of its components;
 - Development of innovative measures that create economic incentives for biodiversity conservation and that compensate local communities that incur opportunity costs associated with its conservation;
 - Strengthening the involvement of local and indigenous people in the conservation and sustainable use of biodiversity;
 - Conservation and sustainable use of threatened coastal and marine resources, and of the biodiversity of environmentally vulnerable areas such as arid and semi-arid and mountainous areas;
 - The conservation and sustainable use of endemic species;
 - The integration of social dimensions, including those related to poverty, into the conservation and sustainable use of biodiversity.
- Tackling the Rio conventions, the *Institute de l'Energie et de l'Environnement de la Francophonie* has published a '*Guide to Developing a Biodiversity Strategy from a Sustainable Development Perspective*'¹⁰. The Guide is intended to help countries develop their NBSAPs and it includes a 'planning matrix' that "facilitates the integration of all thematic areas covered by the CBD" and other biodiversity-related issues. This publication also includes examples of the experience of different countries when using the planning matrix. The Guide concludes that it is a planning tool that allows existing strategies to be evaluated, by revealing their strengths and weaknesses. It also promotes the adoption of the same planning framework by neighbouring countries and therefore facilitates the co-ordination of common problems and shared resources.

2.1.2 Planning under other biodiversity-related conventions

2.1.2.1 Ramsar: National Wetland Policies or Strategies

- According to Article 3.1 of the Ramsar Convention, Parties should 'formulate and implement their planning so as to promote the conservation of the wetlands included in the List, and as far as possible the wise use of wetlands in their territory'.
- Since Ramsar COP 1 (Cagliari, 1980), and repeatedly thereafter, the Ramsar Parties have recognised that National Wetland Policies (NWP) are a key feature envisaged in the implementation of the wise use concept. Guidelines¹¹ for developing and implementing NWP were adopted to assist the Parties in this important component of Ramsar implementation (Resolution VII.6, 1999). They were prepared on the basis of the experience gained by a number of Contracting Parties that had already prepared NWP or similar instruments.

The Guidelines strongly urge Parties to develop National Wetland Policies or Strategies but they also recommend the inclusion of specific sections on wetlands in national environmental or biodiversity strategies. The Guidelines advise to follow a broad consultative process to develop this policy, and also to resolve conflicting interests and share ownership amongst all relevant stakeholders.

¹⁰ Prescott J., Gauthier B. and J. Nagahuedi Mbongu Sodi, (2000). See the Institute's website, <http://www.iepf.org> The Guide is available in French, English and Spanish at BPSP's website: http://www.undp.org/bpsp/thematic_links/thematic_guidelines.htm#sectoral

¹¹ The text of the Guidelines can be found on the Ramsar Web site at http://ramsar.org/key_guide_nwp_e.htm They have also been published as part of the Ramsar Handbook series as Handbook No. 2.

- The Ramsar Convention's Work Plan for 2000-2002 includes the specific action of promoting 'much greater efforts to develop national wetland policies, either separately or as a clearly identifiable component of other national conservation planning initiatives, such as National Environment Action Plans, National Biodiversity Strategies, or National Conservation Strategies'.

The target to be achieved by COP 8, in 2002, is¹²:

- to have at least 100 Parties with National Wetland Policies or, where appropriate, a recognised document that harmonises all wetland-related policies/strategies and plans;
 - all Ramsar Parties to have wetlands considered in national environmental and water policies and plans.
- In the area of planning, Ramsar's Work Plan 2000-2002 also includes the target of developing guidelines for integrating wetlands into coastal zone planning and management, an issue that will be considered by COP 8¹³.

2.1.2.2 Integrated planning under the WHC: Management plans and legal protection for natural heritage sites

- WHC Parties are encouraged to integrate the protection of the cultural and natural heritage into regional planning programmes and adopt measures that give their heritage "a function in the day-to-day life of the community" (Article 5(a), WHC).
- Tentative Lists are recommended as useful planning tools for Parties. They can serve as an inventory of cultural and natural resources from which to nominate sites while bearing in mind the requirements of uniqueness, representativity and overall balance. WHC Parties are invited to submit these Tentative Lists and to bear in mind the criteria for natural and cultural properties under the Convention¹⁴. In this respect, it is within Parties' obligations to "*take the appropriate legal, scientific, technical, administrative and financial measures necessary for the identification, protection, conservation, presentation and rehabilitation of their cultural and natural heritage*" (Article 5(d), emphasis added).
- The Global Strategy of the WHC provides a framework and methodology for implementing the Convention. Its objective is to ensure that the world's cultural and natural diversity of outstanding universal value is reflected in the World Heritage List (WH List). As such, the Global Strategy is an important tool to identify potential sites.
- Natural heritage properties nominated for inclusion in the List should have a management plan. If a site does not have a management plan at the time of nomination, the Party concerned must indicate when such a plan will become available and how it proposes to mobilise the resources required for the preparation and implementation of the plan. The State Party should also provide other documents, such as operational plans, to guide the management of the site until the management plan is finalised¹⁵.
- Natural heritage sites should also have 'adequate long-term legislative, regulatory, institutional or traditional protection'. Sites boundaries must reflect the spatial

¹² Work Plan 2000-2002, Operational objective 2.1, at http://www.ramsar.org/key_workplan_2000.htm

¹³ Id. Operational Objective 2.2.

¹⁴ See at <http://www.unesco.org/whc/nwhc/pages/doc/main.htm>

¹⁵ WHC Operational Guidelines, para.44(b)(v).

requirements of the habitats, species, processes or phenomena that provide the basis for its nomination for inscription on the WH List¹⁶. The boundaries of the nominated site may coincide with one or more existing or proposed protected areas, such as national parks or biosphere reserves.

- The WHC Operational Guidelines include the requirement to designate and protect buffer zones around world heritage sites 'whenever necessary for the proper conservation of a nominated cultural or natural property'. Buffer zones have restrictions placed on their use to give an added layer of protection (the area constituting the buffer zone should be determined in each case through technical studies)¹⁷.
- Another important criterion for selection, and key for this study, is that natural heritage sites 'should be the most important sites for the conservation of biological diversity'¹⁸. The WHC Operational Guidelines include the definition of biodiversity of the CBD.

2.1.2.3 Planning under UNESCO's Man and Biosphere Programme (MAB)

- Objective I.2 of the Seville Strategy for Biosphere Reserves¹⁹ aims at integrating biosphere reserves into conservation planning. The recommendation for action at the national level is to '*integrate biosphere reserves in strategies for biodiversity conservation and sustainable use, in plans for protected areas, and in the national biodiversity strategies and action plans provided for in Article 6 of the Convention on Biological Diversity*'.
- A related objective²⁰ is the need to integrate biosphere reserves into regional planning. Countries are recommended to (i) include biosphere reserves in regional development policies and in regional land-use planning projects and (ii) encourage the major land-use sectors near each biosphere reserve to adopt practices favouring sustainable land use.

2.1.2.4 CMS: integrated planning objectives

- The Strategic Plan for the CMS in 2000-2005 (see section 2.3 of the Annexed Information Document) recognises the urgent need to engage and influence those economic sectors that have a significant impact on migratory species. The Strategic Plan states the need to ensure that concerns related to the conservation of migratory species 'are integrated in national planning priority setting'²¹.
 - The Plan includes the objective of ensuring that the Convention activities are in line with national and regional priorities, and vice versa. Government policies should include consideration of migratory species, 'in particular with regard to planning for economic development, land-use planning, designation and development of reserves, development of ecological networks', and other planning activities²².
 - CMS Parties are requested to use the Strategic Plan as a basis for defining and implementing national activities under the Convention. All Parties are requested to

¹⁶ WHC Operational Guidelines, para.44(b)(vi), emphasis added.

¹⁷ WHC Operational Guidelines, section I.B

¹⁸ WHC Operational Guidelines, para.44(b)(vii).

¹⁹ See section 2.5.3 of the Annex (Information Document).

²⁰ Objective II.3 of the Seville Strategy for Biosphere Reserves.

²¹ CMS Resolution 6.4, Strategic Plan 2000-2005, Objective 2, Scope and Operational Objective 2.1.

²² CMS Resolution 6.4, Strategic Plan 2000-2005, Objective 2; Operational Objective 2.2.

report to CMS COP 7 (2002) on the progress made in the implementation of the objectives identified in the Strategic Plan²³.

2.1.2.5 National Action Programmes (NAPs) under the Convention to Combat Desertification²⁴

- Countries affected by desertification must 'establish strategies and priorities, within the framework of sustainable development plans and/or policies, to combat desertification and mitigate the effects of drought'²⁵. National Action Programmes (NAPs) must start with long-term strategies and priorities. This is an essential element to provide continuity for long-term programming and for enabling governments to co-ordinate and administer their resources more effectively.
- NAPs need to be adapted to particular regional circumstances and the specific requirements are described in the five regional implementation annexes for Africa, Asia, Central and Eastern Europe, Latin America, and the Northern Mediterranean.
- NAPs need to address the underlying causes of desertification and pay particular attention to preventive measures. They must also consider all related aspects of this issue, such as loss of agricultural productivity, reduced vegetation cover, soil erosion, socio-economic costs, etc. These Plans must also include practical steps and measures to achieve their objectives.
- Countries should work towards integrated planning and efforts to combat desertification should be fully integrated with other development programmes. Desertification affects and is affected by environmental concerns such as biological diversity and climate change. This is why NAPs need to be also integrated with the programmes dealing with these issues.
- Developed countries' obligations under the CCD include assistance to countries affected by desertification. This assistance, such as financial support, should be harmonised with that under other biodiversity-related conventions.

2.1.3 Protected Areas

- CBD Parties should establish a system of protected areas. They are defined in the Convention as geographically defined areas 'designated or regulated and managed to achieve specific conservation objectives'²⁶. These areas are regarded as a vital contribution to the conservation of the world's natural and cultural resources. The values of protected areas range from the protection of natural habitats, flora and fauna, to the maintenance of environmental stability of surrounding regions. Protected areas can provide opportunities for rural development, generate income and create jobs. They also play an important role in research and monitoring, and in promoting conservation education and public awareness.
- The CBD states that a system of protected areas is the central element of any national strategy to conserve biological diversity²⁷. Protected areas may be linked to form a network where the various components conserve different elements of biodiversity.

²³ CMS Resolution 6.4, paras. 3 and 7.

²⁴ See section 2.6.2 of the Annex (Information Document).

²⁵ CCD Article 5(b).

²⁶ CBD Article 2.

²⁷ CBD Article 8(a) and 8(b).

Protected areas must be regulated and managed by Parties, who must also aim to promote the protection of ecosystems, natural habitats and species in natural surroundings²⁸.

- CBD Parties also have the obligation to manage those biological resources important for biodiversity conservation, whether they are within or outside protected areas²⁹. In addition, they should aim at promoting sustainable development in areas adjacent to protected areas, or buffer zones, with a view to furthering protection of these areas³⁰. The CBD COP has only referred specifically to buffer zones in the context of the Convention's work programme on forest biodiversity, as regards mitigation options against habitat fragmentation such as ecological corridors and buffer zones³¹.
- CBD COP 4 decided that protected areas will be one of the three items to be considered in-depth at CBD COP 7, in 2004³². COP 4 also called upon the Secretariat to develop relationships with other processes with the aim of fostering good management practices on:
 - methods and approaches to deal with protected areas;
 - ecosystem and bio-regional approaches to protected areas management and sustainable use of biological diversity;
 - mechanisms to enhance stakeholder involvement;
 - methods for developing systems plans and integrating biological diversity considerations into sectoral strategies and plans; and
 - transboundary protected areas.³³
- Most systems of protected areas are based on the six categories defined by the IUCN Guidelines for Protected Areas Management³⁴. The United Nations has provided a list of Protected Areas in order to provide a single and definitive list of protected areas, classified according to the system defined by the IUCN World Commission on Protected Areas (WCPA).
- The *UN List*³⁵ is derived from the World Database on Protected Areas and is compiled and managed by UNEP-WCMC, in collaboration with the IUCN World Commission on Protected Areas³⁶.

It is expected that the following sites will be included in the next edition of the *UN List* (to be released in 2003):

- All natural sites that are recognised or designated by international agreements and programmes.
- Nationally established protected areas that meet IUCN's definition of a protected area, which is: *An area of land and/or sea especially dedicated to the protection and maintenance of biological diversity, and of natural and*

²⁸ CBD Article 8(d).

²⁹ CBD Article 8(c).

³⁰ CBD Article 8(e).

³¹ CBD COP Decision IV/7, para.53

³² CBD COP Decision IV/16, Annex II.

³³ CBD COP Decision IV/15, para.6.

³⁴ See http://www.unep-wcmc.org/protected_areas/categories/eng/

³⁵ The current version of the UN List dates from 1997 and can be accessed in

http://www.wcmc.org.uk/protected_areas/data/un_97_list.html

³⁶ See http://www.unep-wcmc.org/protected_areas/UN_list/index.htm

associated cultural resources, and managed through legal or other effective means.

- Protected areas are a key component of NBSAPs. This is also an area of clear overlap with other biodiversity conventions that provide for the designation of areas to protect specific species and/or habitats, such as the Ramsar Convention ('Ramsar sites') and the WHC (natural heritage properties included in the WH List). In 1997, the Convention on Migratory Species decided that Parties should develop a network of sites as protected areas throughout the migration routes of critically endangered species. In doing so, countries were asked to take into account commitments under other international instruments³⁷. The Seville Strategy on Biosphere Reserves under UNESCO's MAB Programme recommends the integration of these biosphere reserves in plans for protected areas³⁸. It also asks countries to ensure that each biosphere reserve has an effective management policy or plan and an appropriate authority or mechanism to implement it³⁹.
- A certain level of protection for buffer zones around protected areas has been recognised as important by the CBD, WHC and the MAB programme.
- The Ramsar Convention has the specific target of increasing the area of wetland designated for the List of Wetlands of International Importance, particularly for wetland types that are under-represented either at global or national level. In this respect, Parties are encouraged to pay particular attention to the designation of new sites currently enjoying no special conservation status at national level, as a first step towards developing measures for their conservation and wise use⁴⁰. Ramsar Parties are also asked to consider, as a matter of priority, the designation of transfrontier wetland sites (the Ramsar's Work Plan includes the target of having over 50 transfrontier wetland sites designated by COP 8 in 2002).

2.1.4 Species protection

2.1.4.1 The CBD

- Under the CBD, Parties are asked to promote the maintenance of viable populations of species in natural surroundings or *in-situ* conditions (Article 8(d)). They should also promote the recovery of threatened species, both *in-situ* (Article 8(f)) and *ex-situ* (Article 9(c)), and regulate the protection of threatened species and populations (Article 8(k)). In addition, CBD Parties should prevent the introduction of, control or eradicate alien species that threaten ecosystems, habitats or other species (Article 8(h)). The thematic work programmes include relevant elements related to alien species⁴¹.
- A related obligation for CBD Parties, '*in particular for the purposes of Articles 8 to 10*', is to identify components of biodiversity important for its conservation and sustainable

³⁷ CMS Resolution 5.4, Annex, 'Objectives and action points for the 1998-2000 triennium', Objective 5, para.5.2, adopted at CMS COP 5, in April 1997.

³⁸ The Seville Strategy on Biosphere Reserves. Objective I.2, Recommendation 2 (see n.12 above).

³⁹ Id, Objective IV.1, Recommendation 6.

⁴⁰ Ramsar Work Plan 2000-2002, General Objective 6, Operational Objective 6.2, at http://www.ramsar.org/key_workplan_2000.htm

⁴¹ Decisions IV/7, Annex, paras.32, 35 and 52 (forest biodiversity); IV/5, Annex, Op. Obj. 5.1, 5.2 and 5.3 and V/3, para.14 (marine and coastal biodiversity); Decision IV/5, Annex, para.8(c)(vi) (inland water biodiversity); Decision V/23, II, Part B, Activity 7(c) (dry and sub-humid lands).

use, taking into account the indicative list of categories that is included in Annex I to the CBD⁴². These include⁴³:

- ecosystems and habitats containing high diversity, large numbers of endemic or threatened species, or wilderness; required by migratory species; of social, economic, cultural or scientific importance; or, which are representative, unique or associated with key evolutionary or other biological processes;
- species and communities which are threatened; wild relatives of domesticated or cultivated species; of medicinal, agricultural or other economic value; or social, scientific or cultural importance; or importance for research into the conservation and sustainable use of biological diversity, such as indicator species; and
- described genomes and genes of social, scientific or economic importance.

2.1.4.2 CITES

- The objective of CITES' Strategic Vision through 2005 is 'to ensure that no species of wild fauna or flora becomes or remains subject to unsustainable exploitation because of international trade'. In this respect, the Strategic Vision includes a specific objective⁴⁴ to ensure that the Convention's Appendices correctly reflect the conservation and management needs of species. Action to achieve this objective is undertaken by CITES Parties as they prohibit international trade in an agreed list of endangered species and regulate and monitor trade in other species that might become endangered as a result of international trade. The whole implementation of CITES has therefore a species-based approach.
- CITES regulates international trade in wild animal and plant species and therefore does not cover domestic trade and consumption within countries. This does not mean that it does not have an impact on biodiversity use at the national level, since this exploitation would frequently be related to international trade and foreign markets. There is increasing concern about the extent to which domestic trade impacts on international trade and overall resource management. Export restrictions and prohibitions may act as efficient tools to help prevent the unsustainable use of wildlife at domestic level. However, they can also result in trade on those particular species shifting to other countries or species with less strict regulations. This links with Article 8(f) of the CBD and the obligations for Parties to '*rehabilitate and restore degraded ecosystems and promote the recovery of threatened species*' through plans or other measures.

CBD Parties should also regulate or manage those processes and activities that have a significant adverse effect' on biodiversity⁴⁵, which may include trade. In this respect, the CBD could play an important role in supporting regulation of national trade. Annex III of CITES lists '*all species which any Party identifies as being subject to regulation within its jurisdiction for the purpose of preventing or restricting exploitation*'. To achieve this objective, Parties recognise the need to have the co-operation of other Parties in the control of trade in those species.

⁴² CBD Article 7(a).

⁴³ CBD Annex I 'Identification and Monitoring', see at <http://www.biodiv.org/convention/articles.asp?lg=0&a=cbd-a1>

⁴⁴ Objective 2.1.

⁴⁵ CBD Article 8(l).

- CITES also regulates trade in alien (invasive) species as one of the areas of synergy between CITES and the CBD. COP 11 asked CITES Parties to consider opportunities for synergy between CITES and the CBD, as well as appropriate co-operation and collaboration between the two Conventions on the issue of introductions of alien species⁴⁶.

2.1.4.3 CMS

- All fundamental principles of the CMS relate to the protection of migratory species, the focus of this Convention. CMS Parties acknowledge the importance of conserving migratory species and of Range States agreeing to take action to this end. Special attention should be paid to migratory species whose conservation status is unfavourable, and individual or collective action should be undertaken, as appropriate, to conserve such species and their habitat. CMS Parties also acknowledge the need to take action to avoid any migratory species becoming endangered⁴⁷.
- CMS appendices include endangered migratory species, and migratory species with an unfavourable conservation status, which require international agreements for their conservation and management. The burden is placed on Parties that are Range States of migratory species listed in Appendix II to conclude Agreements to benefit these species. In doing so, they should give priority to those species with an unfavourable conservation status⁴⁸. Agreements negotiated under the CMS should aim at restoring the migratory species concerned to a favourable conservation status, or at maintaining it in such a status⁴⁹. Current CMS Agreements and Memoranda of Understanding target the following species and regions⁵⁰:

- CMS Agreements:

- Seals in the Wadden Sea (1990);
- Small Cetaceans of the Baltic and North Seas (1991);
- Bats in Europe (1991);
- African-Eurasian Migratory Waterbirds (1995);
- Cetaceans of the Mediterranean and Black Seas (1996);
- Albatrosses and Petrels (2001).

- CMS MoUs:

- the Siberian Crane (1993);
 - the Slender-billed Curlew (1994);
 - Marine Turtles of the Atlantic Coast of Africa (1999);
 - Marine Turtles and Their Habitats of the Indian Ocean and South-east Asia (2000);
 - Middle-European Populations of the Great Bustard (2000).
- The CMS also encourages its Parties to conclude other agreements to conserve any population or geographically separate part of the population of any species of wild animals which periodically cross-jurisdictional boundaries⁵¹.

⁴⁶ COP 11 Decision 11.64.

⁴⁷ CMS Article II.

⁴⁸ CMS Article IV(3).

⁴⁹ CMS Article V(1).

⁵⁰ See section 2.3 of the Annex (Information Document).

⁵¹ CMS Article IV(4)

- Objective 1 of the Strategic Plan 2000-2005⁵² is 'to promote the conservation of migratory species included in major animal groups listed in the CMS appendices'. Operational objectives cover birds, marine mammals, marine turtles, terrestrial mammals (other than bats), bats, fish, and other taxa traditionally not covered within the framework of CMS.

2.1.4.4 Ramsar

- Article 2.2 of the Ramsar Convention states that wetlands should be selected as Ramsar sites 'on account of their international significance in terms of ecology, botany, zoology, limnology or hydrology. In the first instance, wetlands of international importance to waterfowl at any season should be included'.
- Criteria for designating Ramsar Sites include conditions based on the species and ecological communities of the wetland. Wetlands will be considered as internationally important if they support:
 - vulnerable, endangered, or critically endangered species or threatened ecological communities;
 - populations of plant and/or animal species important for maintaining the biological diversity of a particular biogeographic region;
 - plant and/or animal species at a critical stage in their life cycles, or provides refuge during adverse conditions⁵³.
- There are also specific criteria to designate Ramsar sites based on waterfowl: if the wetland regularly supports 20,000 or more waterfowl or 1% of the individuals in a population of one species or subspecies of waterfowl. Wetlands can also be designated as Ramsar sites based on their fish species. They can be considered of international importance if they support a "significant proportion of indigenous fish subspecies, species or families, life-history stages, species interactions and/or populations that are representative of wetland benefits and/or values and thereby contributes to global biological diversity".
- The Guidelines for international co-operation under the Ramsar Convention adopted by COP 11⁵⁴ cover the management of shared wetland-related species and the sustainable harvesting and international trade in wetland-derived plant and animal products, among other issues. In adopting the Guidelines, the Ramsar COP called upon Parties to give special attention to identifying shared wetlands, river basins, and wetland-dependent species and to co-operate with other Parties in their management; and to harmonise the implementation of the Ramsar Convention with that of other treaties, among other issues.

2.1.4.5 WHC

- One of the four criteria for designating natural heritage sites under the WHC is that the proposed site must contain *'the most important and significant natural habitats for in-situ conservation of biological diversity, including those containing threatened species of outstanding universal value from the point of view of science or conservation'*⁵⁵.

⁵² Resolution 6.4, COP 6, November 1999.

⁵³ The latest version of the Criteria was adopted by Ramsar COP 7 in 1999. See Ramsar Information paper no.5, at http://www.ramsar.org/about_infopack_5e.htm

⁵⁴ Resolution VII.19, COP 11, 1999.

⁵⁵ Operational Guidelines for the Implementation of the World Heritage Convention, 1978-1998, natura criterion iv, as adopted in 1994. See at <http://www.unesco.org/whc/nwhc/pages/doc/main.htm>

- Through working in partnership with the UN Foundation, more support is being given for WH sites and projects with elements related to species protection (e.g. the planning grant project to develop an African World Heritage Forest Initiative that will strengthen law enforcement and enable better control and regulation of the bushmeat trade)⁵⁶.

2.1.4.6 MAB

- The network of biosphere reserves constitutes a tool for the conservation of biological diversity and the sustainable use of its components, thus contributing to the objectives of the CBD and other pertinent conventions and instruments⁵⁷. MAB biosphere reserves should fulfil a conservation function and therefore 'contribute to the conservation of landscapes, ecosystems, *species* and genetic variation'⁵⁸.

2.2 Legislative measures

This section addresses the need for countries to adopt specific legal measures as Parties to the different biodiversity-related conventions covered in this report. This section is linked with section 2.6 below, on reporting requirements, as national reports include information on the country's implementing measures, including those aimed to comply with legal obligations.

The relationship between NBSAPs and national laws is also relevant. Some countries have a legal obligation to develop a NBSAP and review it⁵⁹ but the legal status of NBSAPs depends on the country's legislative system and also on the political importance that is attached to it⁶⁰. Some times an overlap exists between the NBSAP and existing framework laws as biodiversity or general environmental framework laws build in planning elements, but NBSAPs usually need the adoption of further legislation for their implementation. In general, biodiversity strategies and action plans are policy tools that inform legislation but they can also play an important role guiding the application and/or interpretation of existing and new laws.

2.2.1 Legal measures under CITES

- CITES implementation is quite distinct compared to the CBD and other biodiversity-related conventions, as it includes very specific legal obligations for Parties together with compliance and enforcement measures. Parties to CITES must adopt the necessary legislation regulating:
 - the granting of export and import permits or certificates, and re-export certificates for trading specimens of the species included in its Appendices;
 - the prohibition of trade of specimens in violation of the Convention's provisions;
 - the penalisation of trade in, or possession of such specimens; and
 - the confiscation or return of the specimens to the State of export⁶¹.

⁵⁶ Personal communication with Ms Marjaana Kokkonen (UNESCO, World Heritage Centre), 13 June 2001.

⁵⁷ Article 2.2 of The Statutory Framework of the World Network of Biosphere Reserves, see at <http://www.unesco.org/mab/docs/statframe.htm#2>

⁵⁸ Id, at Article 3.

⁵⁹ Such as Peru and Hungary, as well as many Asian countries.

⁶⁰ In Cuba the NBSAP is a policy document that has legal status. Its partial or lack of implementation can result in administrative sanctions.

⁶¹ CITES Article VIII,1.

- Since 1992, CITES has operated a National Legislation Project (NLP) that analyses Parties' legislation in relation to the requirements in Resolution Conf. 8.4 and places that legislation in one of the following three Categories:
 - Category 1 legislation is believed generally to meet the requirements for implementation of CITES.
 - Category 2 legislation is believed generally not to meet all requirements for implementation of CITES.
 - Category 3 legislation is believed generally not to meet the requirements for implementation of CITES.
- Current work under the NLP involves
 - the analysis of new Parties' legislation;
 - the review of new legislation to check whether a Party has achieved Category 1;
 - assistance/pressure to improve Category 2 or 3 legislation; and
 - monitoring/support in the implementation of legislation.
- As a substantial number of Parties had not taken appropriate measures to enforce the provisions of the Convention, Resolution Conf. 8.4 was adopted to urge all Parties to adopt appropriate measure to fully implement them. The Resolution also directed the Secretariat to seek external funding to enable it to provide technical assistance to Parties in the development of their implementing measures. It also invited all Parties, governmental, intergovernmental and non-governmental organisations and other sources to provide financial and/or technical assistance for the development of such measures.

CITES Resolution Conf. 8.4 also directed the Secretariat to:

- a) identify those Parties whose domestic measures do not provide them with the authority to:
 - i) designate at least one Management Authority and one Scientific Authority;
 - ii) prohibit trade in specimens in violation of the Convention;
 - iii) penalise such trade; or
 - v) confiscate specimens illegally traded or possessed;
 - b) to seek from each Party information indicating the procedures, action and time frames that are needed in order to establish the measures necessary to properly enforce the provisions of the Convention; and
 - c) to report its findings, recommendations or progress to COP 9.
- The CITES Secretariat⁶² is preparing a report with examples of CITES provisions in national legislation based on their 'checklist' for legal reviews undertaken by Parties. This document will be used as an information tool on good practice and new developments in national CITES-related legislation⁶³. It will be further used at the regional legislative workshops that CITES Secretariat is planning to organise in support of Parties' legal efforts to comply with the Convention.
 - CITES COP 11 (April 2000) recommended⁶⁴ that all Parties:

⁶² The report is being prepared by IUCN's Environment Law Centre.

⁶³ 45th meeting of CITES' Standing Committee (June 2001), Document 11.1.

⁶⁴ Resolution Conf.11.3 'Compliance and enforcement'.

- ensure strict compliance and control in respect of all mechanisms and provisions of the Convention relating to the regulation of trade in animal and plant species listed in Appendix II, and of all provisions ensuring protection against illegal traffic for the species listed in the Appendices;
 - in case of violation of the above-mentioned provisions, immediately take appropriate measures pursuant to Article VIII, paragraph 1, of the Convention in order to penalise such violation and to take appropriate remedial action; and
 - inform each other of all circumstances and facts likely to be relevant as regards illegal traffic and also of control measures, with the aim of eradicating such traffic;
- Importing Parties should not accept under any circumstances or pretext, export or re-export documents issued by any authority, irrespective of its hierarchical level, other than the Management Authority officially designated as competent by the exporting or re-exporting Party and duly notified to the Secretariat (or competent authority of non-Parties).
 - If an importing country has reason to believe that an Appendix-II or -III species is traded in contravention of the laws of any country involved in the transaction, it should:
 - immediately inform the country whose laws were thought to have been violated and, to the extent possible, provide that country with copies of all documentation relating to the transaction; and
 - where possible, apply stricter domestic measures to that transaction as provided for in Article XIV of the Convention.
 - Parties, inter-governmental and non-governmental organisations have also been urged to provide additional financial support for the enforcement of the Convention, by providing funds to the enforcement assistance work of the Secretariat. The Secretariat is directed to utilise such funds towards the following priorities:
 - the appointment of additional officers to the Secretariat to work on enforcement-related matters;
 - assistance in the development and implementation of regional law-enforcement agreements; and
 - training and technical assistance to the Parties;
 - COP 10 adopted Decision 10.122, which provided a clear distinction between alleged infractions of the provisions of the Convention and non-compliance with the provisions laid down in COP Resolutions. The summaries of these two different categories of cases shall be presented in separate annexes to the reports. Until COP 9, the Secretariat considered the non-implementation of Resolutions as infractions and put them on an equal footing with infringements of the Convention. COP 11 initiated a new approach to the infractions report by placing more emphasis on key enforcement successes, problems and trends, rather than on technical permit violations.
 - COP 11 adopted the Tiger Enforcement Task Force (TETF), an enforcement group to combat illicit trade in tigers, tiger parts and derivatives, as defined by Annex IV to COP 11 Decisions⁶⁵. The activities of the TETF will be co-ordinated by the CITES Secretariat, following agreement with the participating Parties. The TETF will consist of middle to senior officials drawn from law enforcement agencies and/or Customs

⁶⁵ See at <http://www.cites.org/eng/decis/11/annex4.shtml>

authorities of CITES Parties of both tiger range and consumer States. This Task Force will provide technical advice on wildlife crime and illicit trade, and intelligence support to CITES Parties.

- In September 2000, the CITES Secretariat introduced an ‘Alert System’ whereby it distributes confidential information to CITES Management Authorities and to enforcement agencies, which should assist them to target and combat illicit trade and wildlife crime. The Alert System appears to have been very well received in the enforcement community and fulfils the Secretariat’s commitment to the COP that it would be more pro-active in making use of the information supplied to it, conducting analyses of illicit trade, and distributing the results⁶⁶.
- Objective 1.1 of CITES Strategic Vision through 2005 is to assist Parties in the development of appropriate domestic legislation and policies that encourage the adoption and implementation of social and economic incentives allied to legal instruments that⁶⁷:
 - promote and regulate sustainable management of wild fauna and flora;
 - promote and regulate responsible trade in wild fauna and flora; and
 - promote the effective enforcement of the Convention.
- Another objective for 2005 is to promote a high degree of co-operation, co-ordination and collaboration between national and international law enforcement agencies (Objective 3.1).
- Parties that are preparing national legislation to fulfil the Convention requirements may request technical assistance from the CITES Secretariat. The CITES Secretariat sent a Notification⁶⁸ to the Parties advising them that ‘a clear and strong legislative basis is essential for Parties to implement the Convention and the COP Resolutions’⁶⁹.
- National legislation should cover, as a minimum, the four domestic measures that Parties are expected to have implemented in accordance with Articles II (4), VIII (1) and IX as well as Resolution Conf. 8.4. These are: (i) to designate Management and Scientific Authorities; (ii) to prohibit trade in specimens in violation of the Convention; (iii) to penalise prohibited trade; and (iv) to provide for the confiscation of unlawfully traded or possessed specimens⁷⁰.

These requirements are: to designate Management and Scientific Authorities; to prohibit trade in specimens in violation of the Convention; to penalise prohibited trade; and to provide for the confiscation of unlawfully traded or possessed specimens.
- The CITES Secretariat is preparing⁷¹ an analysis of the range of legal, technical and administrative actions that might be taken in response to problems of non-compliance with the Convention, Resolutions and Decisions, such as the late or non-submission of annual reports, taking into account the need to ensure that such actions do not have a negative conservation impact.

⁶⁶ SC 45 DOC 11.2, Forty-fifth meeting of the Standing Committee, 19-22 June 2001.

⁶⁷ Adopted at COP 11 in April 2000, see at <http://www.cites.org/CITES/eng/index.shtml>

⁶⁸ Notification No. 2001/059, of 10 August 2001, ‘National Legislation Project - Implementation of Decision 11.19’. See at <http://www.cites.org/eng/notifs/2001/059.shtml>

⁶⁹ Id, at para.11.

⁷⁰ Id, at para.12.

⁷¹ SC 45 Summary Report, section 13. The SC requested the analysis so it can consider it at its next meeting in March 2002.

- No comparable enforcement measures exist under the CBD as it contains less specific and enforceable obligations. However, the CBD does include obligations that involve the adoption of legislation to protect all threatened species and populations⁷², which include those species threatened with extinction that are or may be affected by trade, targeted by CITES. CBD Parties are also asked to promote the recovery of threatened species through management plans or strategies⁷³.

2.2.2 Ramsar Guidelines for legal and institutional reviews

- Since Recommendation 4.4, in 1990, the Ramsar COP has urged Parties to review their legal mechanisms to ensure that the country's national, provincial, and local laws and institutions impacting upon the conservation and wise use of wetlands and wetland products do not conflict, and leave gaps or unclear areas.
- At Ramsar COP 7, in 1999, in the context of a Technical Session on national planning for wetland conservation and wise use, the Parties adopted Guidelines⁷⁴ to conduct legal and institutional reviews. The Guidelines provide a step-by-step blueprint for the establishment of a review team and its progress through the various stages required to assess the effectiveness of existing wetland-related legal and institutional measures for promoting wetland conservation and wise use, including the identification of sectoral legal and institutional measures which directly or indirectly affect wetlands.
- General Objective 2 of the Convention's Work Plan 2000-2002⁷⁵ is to achieve the wise use of wetlands by implementing and further developing the Ramsar wise use guidelines. Operational Objective 2.1 of the Strategic Plan 1997-2002 specifically relates to the review and, if necessary, amendment of national or supra-national legislation, institutions and practices in all Parties to ensure that the Wise Use Guidelines are applied. The target is to achieve that at least 100 Ramsar Parties undertake comprehensive reviews of their laws and institutions related to wetlands by COP 8 in 2002.
- The CBD's work programme on biodiversity of inland water ecosystems includes recommendations to Parties in the area of economic and legal instruments⁷⁶. CBD Parties should therefore encourage:
 - (i) the identification of stressed rivers;
 - (ii) the allocation and reservation of water to maintain ecosystems; and
 - (iii) the maintenance of environmental flows, 'as an integral component of appropriate legal, administrative and economic mechanisms'⁷⁷.

2.2.3 Legal measures under the WHC

- All WHC provisions are intended to strengthen and consolidate national legislation for nature conservation. In this respect, Parties to the World Heritage Convention must take the *'appropriate legal, scientific, technical, administrative and financial measures*

⁷² CBD Article 8(k).

⁷³ CBD Article 8(f).

⁷⁴ The text of the Guidelines can be found on the Ramsar Web site at http://ramsar.org/key_guide_laws_e.htm They have also been published as part of the Ramsar Handbook series as Handbook No. 3.

⁷⁵ See http://www.ramsar.org/key_workplan_2000.htm

⁷⁶ CBD COP Decision IV/4, Annex I, para.9(m).

⁷⁷ Id, at para.9(m)(v).

necessary for the identification, protection, conservation, presentation and rehabilitation of this heritage' (Article 5(d) of the WHC, emphasis added)⁷⁸.

- Article 5(d) of the WHC is generally interpreted in the sense that natural sites should be protected as 'national parks', as mentioned in paragraph 44(b) of the Operational Guidelines⁷⁹.

2.2.4 MAB Biosphere Reserves

- The core area of Biosphere Reserves under the MAB Programme needs to be legally established to give long-term protection to their landscape, ecosystem and species, according to the conservation objectives of the biosphere reserve, and of sufficient size to meet these objectives⁸⁰.
- There may be several core areas in a single biosphere reserve to ensure a representative coverage of the mosaic of ecological systems. Normally, the core area is not subject to human activity, except research and monitoring, and traditional uses by local communities.

2.2.5 Legal measures under CMS

- CMS Parties commit themselves to providing 'immediate protection for migratory species included in Appendix I' (Article II(3)). Countries that are Range States of any of these endangered migratory species should take a range of measures that may involve the adoption of legal instruments in order to⁸¹:
 - conserve and restore the habitats of the species which are important to remove it from danger of extinction;
 - prevent, remove or compensate the adverse effects of obstacles to the migration of the species;
 - prevent, reduce or control factors that endanger the species, including strictly controlling the introduction of exotic species; and
 - prohibit the taking of animals belonging to the migratory species.
- CMS COP Resolutions and Recommendations may also cause the need for legislative measures⁸². National implementation measures such as programmes and/or direct action on research, monitoring, removal of obstacles to migration, etc. may benefit from having a legislative basis⁸³.

⁷⁸ See section 2.1.2 above for more information on legal and policy measures under the WHC.

⁷⁹ Personal communication with Marjaana Kokkonen (UNESCO, World Heritage Centre), 13 June 2001.

⁸⁰ Article 4(5)(a) of the Statutory Framework of the World Network of Biosphere Reserves, see at <http://www.unesco.org/mab/docs/statframe.htm>

⁸¹ CMS Article III(4) and (5).

⁸² Guide to the Convention on the Conservation of Migratory Species of Wild Animals', July 2000, available at Convention's website <http://www.unep-wcmc.org/cms/>.

⁸³ Id.

2.3 Environmental Impact Assessment (EIA)

EIA requirements under the different biodiversity-related conventions are outlined below. Please note that there is a separate 'BPSAP Thematic Study' on Environmental Impact Assessment⁸⁴.

2.3.1 CBD

- Biodiversity concerns are usually neglected in EIA laws, partly due to a 'definition problem' and also to a lack of understanding of the implications of assessing impacts on biodiversity. A possible linkage between biodiversity planning and EIA legislation would be to use the information generated at the national level through the NBSAP process to help identify priority components of biodiversity for the country. The latter could then be linked to EIA legislation and used to assess the possible adverse impacts of proposed activities.
- Article 14 of the CBD asks Parties to introduce procedures requiring EIA of their proposed projects that are 'likely to have significant adverse effects on biological diversity', in order to avoid or minimise those effects. They should also ensure to take into account the environmental consequences of their plans and policies that are likely to have significant adverse impacts on biodiversity. This Article also includes a provision promoting the notification, exchange of information and consultation on activities undertaken under a Party's jurisdiction that may have an adverse impact on the biodiversity of another country or areas beyond national jurisdiction (Article 14(c)).
- These measures are related to the obligation for CBD Parties to identify processes or categories of activities likely to have significant adverse impacts on biodiversity conservation and sustainable use (Article 7(c)). Once identified, these processes and activities must be managed and regulated as provided for in CBD Article 8(l).
- CBD COP 4 addressed EIA and considered measures for implementing Article 14. Decision IV/10 C invited Parties to transmit information to the secretariat on:
 - impact assessments that consider environmental effects and interrelated socio-economic aspects relevant to biodiversity;
 - strategic environmental assessments (SEAs);
 - ways and means to fully incorporate biodiversity considerations into EIAs;
 - reports relating to existing legislation on EIA; and
 - reports and case studies relating to EIA in the thematic areas, including in respect of activities with transboundary implications⁸⁵.

This Decision also recommended that issues related to EIA be integrated into relevant sectoral and thematic work programmes under the CBD⁸⁶.

- COP 4 asked the secretariat to collaborate with the Ramsar Bureau, the secretariat of the CMS and other organisations on the topic of impact assessment⁸⁷. Consequently,

⁸⁴ 'Improved integration of biodiversity with EIA procedures', see at <http://www.unep.org/bpsap/HTML%20files/TS-EIA.html>

⁸⁵ Decision IV/10 C, para.1.

⁸⁶ Id. at para.4.

⁸⁷ Id, at para.6.

representatives of these international organisations met in December 1998 to review related work by the biodiversity-related conventions and to discuss opportunities for future co-operation. The group arrived at a draft work programme consisting of three components:

- impact assessment and biodiversity-related conventions;
- impact assessment and biodiversity assessment; and
- impact assessment and sharing of information.

Parties have been encouraged to assess not only impacts of individual projects, but also their cumulative and global effects through SEAs, incorporating biodiversity considerations at the decision-making and/or environmental planning level⁸⁸. COP 5 requested SBSTTA to develop guidelines for incorporating biodiversity-related issues in legislation and/or processes on strategic environmental impact assessment with a view to completing this work by COP 6⁸⁹. The development of further guidance in this area will be done in collaboration among the CBD, Ramsar, CMS, IUCN, and the International Association for Impact Assessment (IAIA)⁹⁰. SBSTTA 7 (November 2001) recommended that CBD COP 6:

- endorse a set of draft guidelines for incorporating biodiversity-related issues into EIA legislation and/or processes and in strategic environmental assessment (SEA)⁹¹ and
- urge Parties, other Governments and organisations to apply the guidelines as appropriate in the context of their implementation of Article 14(1) of the CBD and share their experience through the clearing-house mechanism and national reporting⁹².

2.3.2 Ramsar

- Ramsar's Work Plan has also the specific objective to carry out EIAs at wetlands, particularly of proposed developments or changes in land/water use which have potential to affect them, notably at Ramsar sites, whose ecological character "is likely to change as the result of technological developments, pollution or other human interference"⁹³.
- Ramsar COP 7 called upon Parties to reinforce and strengthen their efforts to ensure that any projects, plans, programmes and policies with the potential to alter the ecological character of Ramsar sites, or impact negatively on other wetlands within their territories, are subject to rigorous impact assessment procedures. Parties should also formalise such procedures under policy, legal, institutional and organisational arrangements⁹⁴.
- Both CBD and Ramsar COPs have called for the review of existing EIAs in order to determine how well wetland and biodiversity issues are addressed in practice⁹⁵. Operational Objective 2.4 of Ramsar's Work Plan 2000-2002 has the target that all Parties should incorporate economic valuation of wetland services, functions and benefits into impact assessment and decision-making processes related to wetlands by COP 8 in 2002.

⁸⁸ Decision V/18, para.2(a).

⁸⁹ Decision V/18, para.4e

⁹⁰ Id. and Ramsar Work Plan 2000-2002, Operational Objective 2.5.

⁹¹ SBSTTA Recommendation VII/10, para.1(a).

⁹² Id, at para.1(b). The draft guidelines are annexed to the Recommendation.

⁹³ Article 3.2 of the Ramsar Convention.

⁹⁴ Ramsar Resolution VII.16 on impact assessment.

⁹⁵ Ramsar Recommendation 6.2, Annex to Resolution VI.1, and Operational Objective 2.5 of the Strategic Plan; and CBD Decision IV/10 C.

2.3.3 CMS

- In relation to species listed in CMS Appendix I, Article III, para. 4(b) of the Convention establishes the obligations for Parties that are Range States of Appendix 1 species to prevent, remove, compensate or minimise, as appropriate, the adverse effects of activities or obstacles that seriously impede or prevent the migration of the species.
- Also in relation to Appendix 1 species, Range States should, to the extent feasible and appropriate, prevent, reduce or control the factors that are endangering or are likely further to endanger the species, including strict control of the introduction, or control or elimination, of already introduced exotic species⁹⁶.
- The Convention's Strategic Plan for 2000-2005 includes the provision that to ensure that the activities of the Convention are in line with national and regional priorities, and vice versa, government policies at those levels should include consideration of migratory species, in particular with regard to planning for economic development, land-use planning, designation and development of reserves, development of ecological networks, and planning of power lines, fences, dams, etc.⁹⁷
- Although EIA is not referred to specifically, both CMS Article III,4 and the Strategic Plan, refer to the need to prevent, remove or minimise the adverse effects of activities in the migration of Appendix I species.

2.4 The institutional framework: National authorities responsible for implementation of biodiversity-related conventions

Different government departments are involved in the national implementation of the CBD and other biodiversity-related conventions. The realisation of synergies and inter-linkages between conventions, at the national level, greatly depends on internal co-ordination and information sharing. The relationships, powers and hierarchy between government departments, divisions and ministries tackling different aspects of biodiversity legislation are crucial. Another important factor is the political and administrative structure of the country and the internal division of responsibilities at the sub-national level, in the case of federal and decentralised countries. In this case, the need for co-ordination becomes key in achieving effective implementation of international agreements.

A country's institutional framework and the level of internal co-ordination (or lack of it) are crucial issues if a good biodiversity planning system is to be achieved. Matters such as the establishment and management of protected areas and the protection of key species are more effectively dealt with if there is adequate communication and co-ordination across government departments at different territorial levels.

Significantly, one of the key obligations under the CBD is that of integrating the conservation and sustainable use of biodiversity into sectoral and cross-sectoral plans, programmes and policies (Article 6(b)). National institutions and their officials will be key in achieving effective integration of biodiversity concerns into other policy areas.

⁹⁶ CMS Article III, para.4(c).

⁹⁷ Operational objective 2.2. The Strategic Plan was adopted by Resolution 6.4.

- Key challenges for achieving co-ordination among the Rio Conventions, also relevant for other biodiversity-related conventions, have been identified as⁹⁸:
 - The sectoral division of responsibility for implementation of environmental and sustainable development programmes is often a hindrance to their effective and integrated implementation. MEAs are the responsibility of national governments, which generally work in a sectoral fashion.
 - The institutions with responsibility for implementing particular instruments vary greatly in their authority and resources. They also frequently lack effective means of co-ordinating information and activities, or even simply communicating, with other actors. In some cases, there are real disincentives to effective co-ordination, including institutional rivalries and tension over turf and resource control.
 - The need for effective co-ordination and a central 'focal point' may lead towards too much centralisation of control and power over biodiversity-related policies and programmes. Efforts should be directed towards decentralisation and democratisation.
 - Communication between stakeholders and government is often fragmented and inadequate. In many countries local communities are insufficiently involved in the development of national policies.
 - While these challenges are to a greater or lesser extent common to many nations, effective strategies and structures to address them will necessarily vary widely from country to country. Recommendations regarding institutional arrangements must offer options that are flexible and adaptable to different national circumstances.
- The institutional options proposed by UNDP⁹⁹:
 - Option one: a cross-cutting national committee bringing together key participants
 - Option two: separate institutions with a co-ordinating mechanism
 - Option three: a single institution responsible for all three instruments
- An important issue is the need to share information and co-ordinate the activities of in-country focal points of the different conventions with the country's representatives at international meetings and negotiations related to the development and implementation of those conventions.

Country delegations attending COPs and meetings of the conventions' subsidiary bodies and working groups should work closely with the focal points and exchange information before and after any of these meetings. A two-way flow information is needed so international negotiators are aware of their country's needs and problems related to the implementation of the biodiversity-related agreements. Feedback to focal points is also crucial so that they are fully informed of international developments and the way these affect national obligations.

2.4.1 CBD National Focal Points

- The text of the CBD does not include any reference to the need to designate National Focal Points (NFPs). Early COP decisions included references to NFPs in relation to the establishment of the CBD's Clearing House Mechanism (CHM) and the need to

⁹⁸ UNDP, 'Synergy in national implementation: The Rio Agreements', submitted to UNU Inter-Linkages Conference in July 1999. Available at <http://www.geic.or.jp/interlinkages/docs/online-docs.html>

⁹⁹ Id.

designate them by February 1996¹⁰⁰. Database focal points are also mentioned in the context of developing and strengthening national capabilities, through the development of human resources and institution building¹⁰¹.

- CBD Parties have designated a National Focal Point in their government departments to liaise with the Secretariat and receive all notifications and communications. The full list is available in the CBD's website (<http://www.biodiv.org/world/map.asp>). The list of CHM NFPs is also available in the web (<http://www.biodiv.org/chm/nfp.asp>). SBSTTA also has its list of 'focal points and focal persons' on the basis of information provided by Parties and other relevant regional, sub-regional and inter-governmental organisations¹⁰².
- Specific areas of the CBD require different expertise and input so Parties have also designated NFPs to deal with implementation of the specific theme of access to genetic resources and benefit sharing, and the Global Taxonomy Initiative. The Cartagena Protocol on Biosafety, adopted under the CBD, also asks its Parties to designate a national focal point to liaise with the Secretariat¹⁰³. Parties to the Protocol must also designate one or more 'competent national authorities' to perform the administrative functions required by the Protocol¹⁰⁴.
- In addition to focal points, the CBD is increasingly calling upon experts and other government-designated specialists to be members of numerous expert panels, informal advisory committees, and 'ad hoc open-ended inter-sessional' working groups on issues such as access to genetic resources and benefit-sharing, traditional knowledge and forest biodiversity.

2.4.2 Ramsar: Administrative Authorities and National Committees

- Each Contracting Party is invited to designate a national governmental agency to act as the Administrative Authority of the Convention in the country. The Administrative Authority is the focal point for communications with the Ramsar Bureau and the main agency responsible for the implementation of the treaty¹⁰⁵. It is hoped that the Administrative Authority will consult and co-operate with as many other government agencies and non-governmental institutions as possible in order to ensure the best possible results in achieving the goals of the Ramsar Convention.

Ramsar's Administrative Authorities can provide information on the status of wetland conservation within their territories, as well as on individual Ramsar sites, for which they can also provide links to the responsible officials at the sites themselves. In addition, inclusion of additional wetlands in the Ramsar List must be accomplished through designation by the Administrative Authority of the Party.

- Recommendation 5.7 of the Conference of the Contracting Parties and the Strategic Plan 1997-2002 encouraged Ramsar Parties to establish National Ramsar Committees (NRCs, also called National Wetland Committees). NRCs can provide a focus at national level for the implementation of the Convention, involving all relevant

¹⁰⁰ CBD COP Decision II/3.

¹⁰¹ UNEP/CBD/COP/2/6, 'Establishment of the Clearing-House Mechanism to Promote and Facilitate Technical and Scientific Co-operation'.

¹⁰² SBSTTA's *Modus Operandi*, Annex to Decision IV/16, para. 18.

¹⁰³ Article 19(1) of the Biosafety Protocol. (There has been no designation of biosafety NFPs yet).

¹⁰⁴ *Id.*

¹⁰⁵ The list of Ramsar Administrative Authorities is available on the Ramsar Web site http://ramsar.org/about_admin_auth.htm

government agencies, scientific and technical institutions, regional and local authorities, NGOs, community-based organisations, and the private sector, to deal with such issues as:

- national wetland policies
- management of Ramsar sites and other wetlands
- inclusions in and deletions from the Montreux Record of sites with particular conservation problems
- inclusion of new sites in the Ramsar List of Wetlands of International Importance
- submission of project proposals for the Ramsar Small Grants Fund

In addition, National Committees may provide expert input in the preparation of national reports to COP meetings and review implementation of resolutions and recommendations adopted by the Conference.

Many Ramsar Parties have already established these NRCs. They vary considerably in size, form and composition from country to country. Ideally, National Committees should include as many sectors of government and representatives of stakeholders as possible¹⁰⁶.

- Ramsar's Work Plan for 2000-2002 includes the specific objective of 'developing the capacity of institutions in Contracting Parties, particularly in developing countries, to achieve conservation and wise use of wetlands'¹⁰⁷. The target associated with this objective is to have co-ordinating mechanisms in place in all Parties and, in particular, to see NRC, including government and non-government stakeholder representatives, in place in 100 Parties. In addition, all Parties that reported the existence of NRCs at COP 7, in 1999, should have evaluated their effectiveness (Resolution VII.27). Both targets should be achieved by COP 8, in 2002.
- Under Ramsar's Outreach Programme on communication, education, and public awareness, Parties must designate a National Focal Point for Wetland Communication, Education and Public Awareness (Wetland CEPA). Parties have also been encouraged to designate a 'suitable individual from an international, regional or national NGO' to be the Non-government Focal Point for Wetland CEPA activities, to work together with the government's focal point. Focal Points are expected to form part of a global network of experts due to be established by COP 8 in November 2002.

2.4.3 CITES Management and Scientific Authorities

- Article IX of CITES establishes that Parties must designate one or more Management Authorities, competent to grant permits or certificates on behalf of that Party; and one or more Scientific Authorities. As CITES is a trade agreement on plant and animal species, national authorities in the customs and trade departments, and their environment and scientific counterparts need to share information and co-ordinate, as the two areas, trade and biodiversity, need to be involved both in the international negotiations and country implementation.
- CITES Strategic Vision through 2005, adopted at COP 11 in 2000, includes the objective to strengthen the administrative, management and scientific capacity of Parties

¹⁰⁶ Ramsar Information Paper no. 9, See http://www.ramsar.org/about_infopack_9e.htm

¹⁰⁷ Ramsar Work Plan 2000-2002, General Objective 4, Operational Objective 4.1, see http://www.ramsar.org/key_workplan_2000.htm

by improving the co-ordination between Management and Scientific Authorities and other national agencies responsible for wild animals and plants (Objective 1.2). It also aims at strengthening the enforcement capacity of Parties and at improving co-ordination among Management Authorities and other agencies (e.g. police, Customs and veterinary and phytosanitary services) (Objective 1.3). The Strategic Vision includes as well the need to improve co-ordination between CITES Management and Scientific Authorities, and increase the effectiveness of the latter (Objective 1.7).

Another objective for 2005 is to ensure that all Parties have at least one designated Scientific Authority with experts in wild fauna and flora (Objective 1.6).

- In addition to Management and Scientific Authorities, a range of enforcement authorities is involved in monitoring compliance and addressing non-compliance at national level. These include customs, police, border and specialised wildlife officers, etc. Under the Strategic Vision, the CITES Secretariat is charged with compiling a list of these authorities.

2.4.4 CMS Focal Points

- CMS Parties are asked to nominate a Focal Point (Parties can nominate a second focal point if they so wish) and a 'Scientific Councillor' (they can also nominate an alternate)¹⁰⁸.

2.4.5 WHC

- The WHC differs from other MEA's because it includes both natural and cultural sites. This is why the national focal points or national commissions to UNESCO are often found in the Ministries of Culture or Ministries of Education. Issues related to natural World Heritage are dealt with in the Ministry of Environment or agencies responsible for protected areas. Lack of co-ordination among all these institutions is frequent, with only a few countries having established national World Heritage committees, which enhance co-ordination.

2.5 Exchange of Information

This section covers exchange of information among Parties to biodiversity-related conventions. Many MEAs include provisions related to the need to share information as a legal obligation of Parties. An important issue is how to deal with information held by NGOs, the private sector, and scientific or research institutions, as opposed to government departments.

The systematic gathering, analysing and updating of information is crucial to ensure that the best options for complying with biodiversity-related conventions are considered. Comprehensive and up-to-date information and data needs to be exchanged and made available across public authorities, and also among public and private bodies, and NGOs.

All biodiversity-related conventions are increasingly making information publicly available through their websites although not all information and data that Parties exchange is publicly available. In 1998, the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (the 'Aarhus

¹⁰⁸ Guide to the Convention on the Conservation of Migratory Species of Wild Animals, July 2000, see at <http://www.wcmc.org.uk/cms/>

Convention') was adopted under the UN Economic Commission for Europe¹⁰⁹. Although the Aarhus Convention is not a 'global' convention, other regions have shown an interest in negotiating a similar agreement following the Aarhus model.

CONABIO

(National Commission for the Knowledge and Use of Biodiversity, Mexico)

Established by Presidential Decree in March 1992, CONABIO is an inter-departmental agency that integrates 10 State Ministries and collects and analyses biodiversity information. CONABIO's mission is to promote, co-ordinate and support activities to create, maintain and distribute information on biodiversity in México, with the objective of achieving its conservation, sustainable use and management. This body includes representatives from different sectors and plays an important role in increasing awareness and improving participation. It is also Mexico's Scientific Authority for CITES and focal point of the CBD's Clearing House Mechanism. CONABIO's website: <http://www.conabio.gob.mx/>

2.5.1 CBD

- According to Article 17, CBD Parties should facilitate the exchange of information relevant to the conservation and sustainable use of biological diversity, 'taking into account the special needs of developing countries'. The Convention expressly refers to the exchange of 'results of technical, scientific and socio-economic research', as well as 'information on training and surveying programmes, specialised, indigenous and traditional knowledge'. Article 17(2) also refers to repatriation of information¹¹⁰.
- CBD's programmes of work also include the promotion of information exchange among their activities: marine and coastal biodiversity¹¹¹, inland waters¹¹², agriculture¹¹³, and forests¹¹⁴.
- Although there are no specific CBD COP Decisions addressing this Article, this issue of gathering and sharing information has been an important component of the COPs and it has been included in a number of decisions on other areas¹¹⁵. In particular, the CBD Secretariat has called on parties to submit case studies, as well as other information and data, for their dissemination through the Clearing House Mechanism (CHM)¹¹⁶. The CHM was set up¹¹⁷ to tackle the imbalance in expertise in managing information and technology among CBD Parties and so 'ensure that all governments have access to the information and technologies they need for their work on biodiversity'¹¹⁸.

¹⁰⁹ See at <http://www.unece.org/env/pp/>

¹¹⁰ CBD COP Decision III/11: 'Identification, monitoring and assessment', recommends that Parties explore ways to make taxonomic information available, especially to countries of origin (para.8).

¹¹¹ Programme of work on marine and coastal biodiversity, Annex to Decision IV/5, Part C, Operational objectives 2.1(para.(b)), 3.2 (para.(c)), 4 (para.(b)), 5.1 (paras.(a) and (c), 6.1 (para.(a)), and 6.2 (paras. (a) and (b)).

¹¹² Programme of work on biological diversity of inland water ecosystems, Annex I to Decision IV/4, Part A, paras. 5 and 8(c).

¹¹³ Programme of work on agricultural biodiversity, Decision III/11, paras. 1(e) and (f), 10 and 11 and Decision V/5, Annex, Activity 1.5(c), 2.2, and 4.1(c).

¹¹⁴ Work Programme for forest biological diversity, Annex to Decision IV/7, paras.7(d), 16, 17, 30, 34, 35 and 37.

¹¹⁵ 'Handbook of the Convention on Biological Diversity', op.cit.

¹¹⁶ See at <http://www.biodiv.org/chm>

¹¹⁷ CBD Article 18(3) provided that CBD COP-1 would determine how to establish a CHM 'to promote and facilitate technical and scientific co-operation'. See COP Decisions I/3 and II/3.

¹¹⁸ www.biodiv.org/chm

2.5.2 Ramsar

- Article 3 of the Ramsar Convention provides that each Party must 'arrange to be informed' if the ecological character of any wetland included in the Ramsar List has changed or is likely to change due to 'technological developments, pollution or other human interference'. This information must be transmitted immediately to the organisation or government performing the continuing bureau duties. Article 4(3) more generally encourages Parties to research and exchange data and publications on wetlands, their flora and fauna.
- The Ramsar Information Sheet (RIS) on wetlands of international importance provides essential data on all Ramsar sites in order to allow analysis of Ramsar-listed wetlands to provide baseline data for measuring changes in the ecological character of listed wetlands. It also aims at providing material for publications to inform the general public about Ramsar sites¹¹⁹. There is also an on-line site Ramsar Database¹²⁰ that includes maps and text-based information on all Ramsar sites.
- Section D of the 'Ramsar Guidelines for International Co-operation focuses on 'Guidelines related to the sharing of expertise and information'¹²¹. According to these guidelines, a priority for Focal Points for Wetland Communication, Education and Public Awareness, and for the work of the Scientific and Technical Review Panel, should be to establish expert networks at the national level to allow for the rapid gathering and dissemination of information. These guidelines indicate that the Convention will increase its efforts to share knowledge (traditional, indigenous, and more recently derived technologies and methods) among Parties.

2.5.3 CMS

- CMS Agreements for Appendix II species should provide for 'the exchange of information on the migratory species concerned' and also for 'the exchange of the results of research and of relevant statistics' (Article V(5)(d)). All CMS Agreements, and also MoUs, include provisions on the exchange of information, many use the same provision that Parties should 'endeavour to exchange expeditiously the scientific, technical and legal information needed to co-ordinate conservation measures'.

2.5.4 CITES

- One of the specific objectives of CITES Action Plan¹²², adopted by COP 11, is to facilitate the development and use of appropriate technologies and information management systems that enhance and expedite the collection, submission and exchange of accurate information (objective 1.4). Another action point refers to providing opportunities for Scientific Authorities to exchange information and data, such as the sharing of non-detriment findings and other data, management plans and case studies, etc.¹²³.
- Objective 3.3 of CITES Strategic Plan aims at encouraging 'mutual technical assistance in enforcement matters' both among Parties and with the Secretariat. Crucially, CITES Action Plan includes the need to develop a mechanism to ensure transfer and exchange

¹¹⁹ See at http://www.ramsar.org/key_ris_index.htm

¹²⁰ See at http://www.wetlands.agro.nl/ramsar_database/ramsar_quick.html

¹²¹ Annex to resolution VII.19. See at http://www.ramsar.org/key_guide_cooperate.htm

¹²² 'CITES Strategic Vision through 2005', see at <http://www.cites.org/eng/decis/11/annex1.shtml>

¹²³ Action point 2.3.5.

of information between CITES and other relevant conventions, agreements and associations for species of concern¹²⁴.

2.6 Reporting mechanisms

Reporting obligations directly relate to the way States implement and monitor the application of international conventions. Some of the conclusions of the UNEP-WCMC *Feasibility Study* reported in section 3.2 of the Annex relate to the management of information under biodiversity-related conventions. These conclusions are presented in the table below.

Some conclusions from the 1998 WCMC *Feasibility Study*

- While the CBD has broad information requirements, Ramsar has a focus on wetlands of international importance, although its promotion of the wise use concept implies broad information requirements. Each of the other three conventions has a particular focus: CITES and CMS are clearly targeted at species while World Heritage is directed at sites. Successful implementation of each convention relies upon a wide range of fundamental data: Certain data are unique to one convention (e.g. permit details and trade data required by CITES). However, there are a number of fundamental data sets that are required by more than one convention (see below) and also a number required by all five conventions¹²⁵.
- CBD requires information on the full spectrum of biodiversity: ecosystems and habitats, species, communities, and described genomes and genes of social, scientific or economic importance. Of these, only species data are significantly required by the other conventions, although the habitat present at sites is also important for Ramsar and World Heritage. CITES and CMS require species information and they share approximately 445 species. For CMS, this represents approximately 25% of the species listed. The main difference lies on the ‘use’ of species, specially relating to trade. This is an important data set for CITES, but is less relevant to CMS.
- The most important species related data for Ramsar and World Heritage are range, distribution, population size (including size trends) and habitat requirements. One of the key links shared by all the conventions relates to the status of species.
- Ramsar and World Heritage require very similar information on sites. For example, each site must be described in a certain level of detail. Much the same information is also required by CBD but in a more general sense – particularly what action and legislation are in place.
- There is no apparent requirement for site-related data for CMS, and only a limited requirement for CITES with regard to particular species. However, the designation of suitable sites based on species criteria could form part of the *in situ* and legislative activities undertaken by Parties as part of their implementation activities. This implies that certain conservation-related activities, undertaken under specific provisions of one convention, could be of significance to others.

¹²⁴ CITES Strategic Plan, Objective 5.2, action point 5.2.1.

¹²⁵ Data on species conservation, their protection status, direct and indirect threats they face, etc.

As far as reporting obligations is concerned, the WCMC study proposed to standardise guidelines to prepare reports under all biodiversity-related conventions. This would not only facilitate their review, but also their preparation and submission by Parties. The use of common guidelines would also help the setting of priorities for action at the national level.

By comparing Parties' compliance with the reporting obligations of both CITES and CMS, the study concluded that clearer guidelines could encourage and contribute to high levels of compliance. By harmonising the reporting requirements and their timing, where possible, and encouraging a standard approach to data collection, the conventions may encourage national level co-ordination¹²⁶. The need for such national co-ordination is more apparent in countries where different governmental authorities/departments are responsible for the implementation and reporting obligations related to each of the Conventions.

Main benefits expected from the *Feasibility Study*:

In relation to the Conventions:

- improved ability to achieve treaty objectives through process improvement
- improved efficiency (reduced cost) of information management, including ability to respond to queries
- jointly improved analysis capacity and ability to co-ordinate programmes of work, through sharing of information and experience
- improved information quality, consistency and transparency

In relation to Parties:

- reduced cost of meeting reporting requirements of treaties
- improved information feedback from secretariats and comparability with other countries
- data and information would help parties understand better their obligations and, consequently, manage, monitor and improve treaties implementation

Following on the 1998 Feasibility Study, UNEP-WCMC is planning a *Reporting Obligations Database*. This database would provide a consolidated inventory of all obligations placed on contracting parties to report information to international conventions. The information would be compiled in the form of an annotated list of specific 'questions' or information elements demanded (directly or implicitly) by each obligation. Each of these questions and obligations would be key-worded to facilitate analysis. Subsequent analysis of the database should highlight areas of potential overlap and synergy, and help to guide national information management as well as definition of reporting requirements.

2.6.1 CBD

- According to Article 26, the objective of national reporting is to provide information on measures taken for the implementation of the Convention, and on the effectiveness of these measures. An effective system of national reporting can assist the CBD COP to:
 - Consider the lessons learned by Parties in the implementation of the Convention
 - Identify gaps in capacity for policy research and analysis at the national, regional and global levels, including technical and financial requirements
 - Formulate appropriate requests and guidance to Parties and to its subsidiary bodies, the Secretariat, the financial mechanism, and other organisations with expertise relevant to the implementation of the Convention.

¹²⁶ See *Feasibility Study*, 11.

- The reporting process is also useful for the countries themselves as it can assist them to monitor the status of implementation of their commitments as CBD Parties. Reporting can assist the country to identify those commitments that are being successfully met, those that have not been implemented, and its particular constraints to implementation.
- The first national reports under the CBD had to focus on the measures taken for the implementation of Article 6 of the Convention, as well as the information available in national country studies on biological diversity (Decision II/17). COP 3 decided that the first national reports should be submitted no later than 1 January 1998 (Decision III/9). COP 4 considered a synthesis of the information contained in the 86 reports received prior to that meeting. Decision IV/14 asked SBSTTA to provide advice on the intervals and form of future national reports, including the nature of the information needed from Parties in order to assess the status of implementation of the Convention. It also asked for recommendations on improving the reporting process and identification of ways and means to facilitate national implementation.
- SBSTTA 5 considered guidelines for future national reporting that had been developed by the Secretariat through a pilot project, to identify a methodology for assessing the state of implementation of the Convention. This involved (i) identifying the obligations on Parties deriving from the provisions of the Convention and COP decisions, and (ii) formulating these as questions designed to elicit responses that would reveal the level of implementation, relative priorities, constraints encountered and issues not yet addressed.

COP 5 endorsed this format as a guide for future national reporting and as a means by which the status of national implementation can be measured (Decision V/19)¹²⁷. Parties were requested to submit their second national reports by 15 May 2001, for consideration at COP 6. National reports will be called for on a four-yearly basis and will be considered at alternate COP meetings¹²⁸.

- CBD Parties have also been invited to submit thematic reports on the key issues to be discussed at COPs. At COP 6, these will be alien species, forest ecosystems and benefit sharing.
- The COP has requested the CBD Secretariat to co-ordinate with the secretariats of other biodiversity-related conventions and consider the possibility of harmonised reporting¹²⁹.

2.6.2 Ramsar

- Following the instructions of COP 7, Ramsar's Standing Committee adopted a format for National Reports which Parties are urged to use as a national planning tool for the implementation of the Ramsar Convention. Countries have been asked to establish and maintain records of their implementation for national planning and reporting purposes.

This action by the COP indicates a significant shift in the purpose of the national reporting process. Reports were previously required every three years of a mere description of actions taken, with the purpose of providing a dynamic and ongoing framework for strategic planning and action by national governments, which also met the obligation to provide a National Report for each meeting of the COP.

¹²⁷ Guidelines for the second national report and thematic reports are available in <http://www.biodiv.org/doc/ref/nr-02-guidelines.asp?lg=0>

¹²⁸ CBD COP Decision V/19.

¹²⁹ COP Decisions II/13, para. 4(b); Decision III/21, para.3; Decision IV/15, para.5(b) Decision V/19, para.8(c).

National Planning Tool

- All Parties are urged to adopt this comprehensive national planning tool as soon as possible and to use it to identify gaps and areas of highest priority for action against the Convention's Work Plan 2000-2002. This should include the setting of realistic national targets on the basis of the global targets established in the Convention's Work Plan.
- The National Reports format is intended to provide a checklist of actions needed if Parties are to implement the Convention fully. COP 7 also urged Parties to prepare 'their National Reports for Ramsar COP 8 in consultation with their National Ramsar/Wetland Committees, where they exist, and also with all other relevant Government Ministries'¹³⁰.
- The draft national planning tool for the implementation of the Ramsar Convention on Wetlands, based on the approved format for National Reports to be submitted for Ramsar COP 8 (Spain, 2002) is available in the web¹³¹.

2.6.3 WHC

- Under Article 29.1, WHC Parties are requested to give information on the legislative and administrative provisions that they have adopted for the application of the Convention. They must include this information in Section I of their periodic report.
- In 1997, the General Conference of UNESCO¹³² invited WHC Parties to submit reports on the legislative and administrative provisions they adopt, as well on and other actions taken for the application of the Convention, including the state of conservation of the World Heritage properties located on their territories. The General Conference also requested the World Heritage Committee to define the periodicity, form, nature and extent of the periodic reporting on the application of the WHC, and on the state of conservation of World Heritage properties.
- In 1998, the World Heritage Committee adopted a number of decisions with regard to the submission of periodic reports, including a 'Format and Explanatory Notes for the periodic reporting on the application of the WHC' that included Parties' obligation to report every six years. This format consists of two sections¹³³:
 - Section I: constitutes the Party's report on the application of relevant articles of the WHC, including those referring to the identification of properties of cultural and/or natural value; protection, conservation and presentation of the cultural and natural heritage; international co-operation and fund raising ; and education, information and awareness building.
 - Section II: refers to the state of conservation of specific World Heritage properties located on the Party's territory. Its main objective is to obtain an assessment of whether the World Heritage value/s for which a property was inscribed on the World Heritage List is/are maintained over time. In addition, Parties are requested to provide up-dated information on the management, factors affecting the property and monitoring arrangements.

¹³⁰ Ramsar Resolution VII.27, para.14.

¹³¹ See http://www.ramsar.org/cop8_nr_natl_rpt_intro_e.htm

¹³² Resolution adopted by the UNESCO General Conference, twenty-ninth session, 1997.

¹³³ See <http://www.unesco.org/whc/reporting/prexpl.htm>

- The Secretariat recalled that the following principles guide the design and implementation of the regional periodic reporting strategies¹³⁴:
 - The States Parties themselves are responsible for the preparation of national Periodic Reports.
 - States Parties may request expert advice from the Secretariat or the advisory bodies. The Secretariat may also commission expert advice with the agreement of the States Parties.
 - Periodic reporting will provide the framework for the exchange of experiences among States Parties.
 - Periodic reporting is a participatory process in which all World Heritage partners are involved.
 - The Secretariat will facilitate the implementation of the periodic reporting requirement by the States Parties and will synthesise the national reports by region. In doing so, full use will be made of the available expertise of the advisory bodies, States Parties, competent institutions and expertise available within the region.
- Parties must submit site-specific conservation reports. These 'state of conservation' reports are examined twice a year in the WH Bureau and Committee meetings. They are compiled in co-operation with IUCN and include information on the sites received from State Parties as well as from NGOs and individuals. This information is verified and, if necessary, site visits and monitoring missions are undertaken. The Bureau and Committee can recommend specific actions to the Parties.

2.6.4 CMS

- Article VI of CMS provides that Parties must inform the Secretariat, at least 6 months before the COP, of the measures they are taking to implement the convention. CMS Parties should also keep the Secretariat informed of the migratory species listed in any of the Appendices it considers itself to be a Range State. This includes the obligation to inform the Secretariat about their flag vessels operating outside national jurisdictional limits and engaged in activities of taking any of the migratory species listed in the Appendices.
- Resolution 6.5, adopted by CMS COP 6 in 1999, covers an Information Management Plan and national reporting. It recommends that the format of national reports should be revised to include a standard minimum requirement of information such as a "tick box" proforma. Reports should also cover the national status of species listed under the Convention; legal and legislative structures; management activities; emerging issues; links with other conventions; and any theme which CMS COP might ask Parties to report on.

2.6.5 CITES

- The reporting obligation of the Parties concerns the implementation of the Convention at national level. Parties must submit an annual report containing a summary of permits and trade in species of the three Appendices. They must also submit a biennial report on

¹³⁴ Report of 24th session of the World Heritage Committee, section on *Periodic Reporting: Progress report on regional strategies for periodic reporting*. See <http://www.unesco.org/whc/toc/main15.htm>

*'legislative, regulatory and administrative measures taken to enforce the provisions'*¹³⁵ of the Convention. In accordance with their national legislation, Parties should make these reports available to the public.

2.7 Public education and awareness

The biodiversity planning process has helped raise awareness on biodiversity issues in many countries. Apart from general information and public education on this issue, specific sectors need to be targeted due to their particular impact on biodiversity, such as agriculture, industry, fisheries, transport, etc. This approach needs to focus both in government departments and officials dealing with these sectoral activities, and the private sector (business associations, trade unions, producers' organisations, Chambers of Commerce, etc.). The judiciary has also been identified as a sector with important training needs regarding biodiversity-related conventions and their implementation at the national level.

Non-governmental organisations, convention secretariats and national authorities should collaborate to increase the level of public awareness. There is a very important and close link between education, public awareness and public participation. The higher the awareness about biodiversity, its value and the threats it faces, the greater the public participation and involvement in its conservation and sustainable use.

Similarly to the tools needs in the area of public participation, adequate materials and education/dissemination strategies are needed. Public education and awareness programmes should be tailored to their target audiences and the materials and tools designed accordingly. The use of visually attractive products, easy to understand, and translated into the local and indigenous languages, are all important elements to achieve increased public awareness on biodiversity-related issues.

2.7.1 CBD

- Article 13 of the CBD asks Parties to promote and encourage understanding of the importance of biodiversity and of the measures to conserve it. This issue should be included in educational programmes and disseminated through the media. Parties should also co-operate with other countries and international organisations to develop educational and public awareness programmes. COP 4 decided to integrate public education and awareness issues into all sectoral and thematic items under the CBD's programme of work¹³⁶. This approach was reiterated at COP 5¹³⁷.

COP 4 invited UNESCO to consider the launch of a global initiative on biodiversity education, training and public awareness¹³⁸, and requested the secretariat to explore the feasibility of such an initiative and report to COP 5 on progress¹³⁹. COP 5 requested the secretariat to convene a consultative working group of experts to identify priority activities for this global initiative, in co-operation with UNESCO¹⁴⁰. The CBD-UNESCO Consultative Working Group of Experts on Biodiversity Education and Public Awareness is to take into account priorities developed by the COP and those identified in the Strategic Plan to be prepared for the Convention. The Consultative Working Group has held two

¹³⁵ Article VIII, 7, (b), CITES.

¹³⁶ Decision IV/10, Part B, para.5.

¹³⁷ Decision V/17, para.5.

¹³⁸ See <http://www.biodiv.org/outreach/awareness/global-initiative.asp>

¹³⁹ Decision IV/10, Part B, para.7.

¹⁴⁰ Decision V/17, para.2

meetings, one in Paris, France, in July 2000 (EPA-1)¹⁴¹ and one in Bergen, Norway (EPA-2)¹⁴². The Third Meeting of this Consultative Working Group¹⁴³ was held in Bilbao, Spain on 5-7 November 2001¹⁴⁴.

The November meeting reviewed the main issues discussed by the Working Group in its previous meetings and identified three 'clusters': (i) strategic issues for the establishment of the global initiative; (ii) issues related to the draft programme of work; and (iii) communication for the marketing of the global initiative. The final recommendations adopted by the group are included in an annex to the draft decision that will be submitted to COP 6¹⁴⁵.

- The CBD COP has urged Parties to place special emphasis on Article 13 in the development of their national strategies and action plans. It has also urged them to¹⁴⁶:
 - promote education on biodiversity through relevant institutions including NGOs;
 - allocate resources for the use of education and communication instruments;
 - allocate appropriate resources for the strategic use of education and communication instruments at each phase of policy formulation, planning, implementation and evaluation;
 - integrate biodiversity concerns into education strategies; and
 - support relevant initiatives by major groups which foster stakeholder participation in biodiversity conservation and sustainable use.
- Parties have also been urged by the COP to propose projects to the financial mechanism (GEF) which promote measures for implementing Article 13¹⁴⁷. There is a great need for financial resources to increase public education and awareness on biodiversity issues.

2.7.2 Ramsar's Outreach Programme

- The Outreach Programme of the Convention on Wetlands (adopted in 1999 by Resolution VII.9) was established to:
 - generate a greater awareness among people about the functions, services and values of wetlands so they are perceived as important assets of the natural infrastructure of each country;
 - motivate people to care about wetlands so that they become involved in policy formulation and hands-on planning and management of wetlands;
 - build support for wetland conservation and wise use amongst policy makers, the private sector, and all other sectors of society.
- The Outreach Programme is intended to assist with putting in place an appropriate framework for action on communication, education, and public awareness that will facilitate the implementation of the Convention on Wetlands and thus contribute to the sustainability of the global natural resources. The Convention's Work Plan 2000-2002

¹⁴¹ UNEP/CBD/GEEPA/1/1, of 20 August 2000 (Report of the meeting).

¹⁴² UNEP/CBD/GEEPA/2/3, of 30 January 2001 (Report of the meeting)

¹⁴³ For the Report of the Meeting see <http://www.biodiv.org/doc/meetings/geepa/geepa-03/geepa-03-en.pdf>

¹⁴⁴ See <http://www.biodiv.org/outreach/awareness/epa-03.asp>

¹⁴⁵ UNEP/CBD/COP/6/13/Add.2, of 13 December 2001.

¹⁴⁶ Decision IV/10, B, para.1.

¹⁴⁷ Id, at para.9.

includes the objective to support and assist in implementing, in co-operation with partners and other institutions, an international programme of Education and Public Awareness (EPA) on wetlands, their functions and values, designed to promote national EPA programmes¹⁴⁸.

- Each Party has been invited to nominate a National Focal Point for Wetland Communication, Education and Public Awareness (Wetland CEPA), and to inform the Ramsar Bureau of the person fulfilling this role. This person should be an expert in the area of Wetland CEPA from the Ramsar Administrative Authority, or might alternatively be from another appropriate government agency¹⁴⁹.
- Parties are also encouraged to invite a suitable individual from an international, regional or national NGO to be the Non-government Focal Point for Wetland CEPA activities and to work with the Government-based Focal Point in progressing the review of needs, capacities and opportunities, and subsequent plans of action¹⁵⁰. Focal Points are expected to form part of a global network of experts¹⁵¹. The target is to see the global network of proposed Wetland CEPAs and Non-government focal points in place and functioning effectively in the promotion and execution of the global Outreach Programme, by COP 8 in 2002.
- The Outreach Programme relates directly to specific objectives of the Convention's Strategic Plan for 1997-2002. Of relevance for Parties is the objective to develop and encourage national programmes of education and public awareness (EPA) on wetlands, targeted at a wide range of people, including key decision-makers, those living in and around wetlands, other wetland users, and the public at large¹⁵². Additional Guidance on Reviewing and Action Planning for Wetland Communication, Education and Public Awareness has been published by the Ramsar Bureau in March 2001¹⁵³.

2.7.3 CMS

- The preamble of the Convention recognises the 'ever growing value of wild animals from environmental, ecological, genetic, scientific, aesthetic, recreational, cultural, educational, social and economic points of view'. Public awareness and education are generally recognised as an element of the CMS Agreements.
- The Convention's Strategic Plan for 2000-2005 aims at increasing awareness of the relevance of CMS and its global importance in the context of biodiversity conservation, and at convincing decision-makers and stakeholders at all levels that conserving migratory animals throughout the world is a worthy objective¹⁵⁴.

2.7.4 WHC

- Article 27 of the Convention provides that Parties should endeavour by all appropriate means, and in particular by educational and information programmes, to strengthen appreciation and respect by their peoples of the cultural and natural heritage defined in Articles 1 and 2 of the Convention. They should undertake to keep the public broadly

¹⁴⁸ Operational Objective 3.1.

¹⁴⁹ Ramsar Resolution VII.9

¹⁵⁰ Id. at para.18.

¹⁵¹ Id. at para.22(c).

¹⁵² Id, at para.4(ii).

¹⁵³ See at http://www.ramsar.org/outreach_reviewsactionplans1.htm

¹⁵⁴ Operational Objective 4.1.

informed of the dangers threatening this heritage and of the activities carried on in pursuance of this Convention.

- UNESCO Special Project 'Young Peoples Participation in World Heritage Preservation and Promotion' was launched in 1994 by the UNESCO Associated Schools Project network (ASPnet) and the World Heritage Centre. It aims to give young people the opportunity to voice their concerns and become involved in the protection of the world's natural and cultural heritage. The project is proving to be successful and currently involves more than 130 countries. One of the major activities of the project is the international World Heritage Youth Fora, which brings students and teachers together to exchange their experiences and ideas on heritage conservation and preservation. Another important part of the project is the World Heritage Educational Resource Kit titled 'World Heritage in young hands', first published in 1999. The kit is currently being experimented and adapted in 700 Associated Schools in more than 130 countries. An Internet version of the Kit will be available on the UNESCO website in 2001.
- UNESCO is part of the global initiative on biodiversity education, training and public awareness initiated by the CBD Secretariat. The CBD/UNESCO consultative working group of experts has met twice in 2000, and held a further meeting in 2001 to identify priority activities and finalise a programme of work under this global initiative (see section 2.5.1 above).

2.7.5 MAB Programme

- The Seville Strategy for Biosphere Reserves relates to improving education, public awareness, and involvement. In particular, recommendations for countries with Biosphere Reserves include¹⁵⁵:
 - Include information on conservation and sustainable use, as practised in biosphere reserves, in school programmes and teaching manuals, and in media efforts;
 - Encourage participation of biosphere reserves in international networks and programmes to promote cross-cutting linkages in education and public awareness.

2.7.6 CITES

- CITES Strategic Vision through 2005 includes the need to promote awareness of CITES issues and a greater understanding by the judiciary of the social and economic significance of conservation threats posed by illegal trade in wild fauna and flora¹⁵⁶. The following objectives are also included in the Strategic Vision¹⁵⁷:
 - To strengthen communication and collaboration with national and international NGOs (Objective 3.5);
 - To strengthen alliances with relevant local communities, consumer groups and traders.(Objective 4.2);
 - To promote greater awareness among and co-operation with the scientific community. (Objective 4.3);
 - To produce and disseminate informative materials to a broad public at a local, national and regional levels. (Objective 4.4);
 - To improve communication and collaboration with the media. (Objective 4.5);

¹⁵⁵ Objective III.3, Recommendations 3 and 4.

¹⁵⁶ CITES Strategic Vision Through 2005.

¹⁵⁷ Id, Objective 4.1

- To strengthen knowledge, promote awareness and facilitate enforcement of flora issues in CITES. (Objective 4.6).
- The CITES Secretariat is developing a general brochure on the Convention to increase public awareness. The Secretariat's capacity building unit has also been strengthened to take on public outreach activities.
- In addition, the Secretariat has compiled a 'CITES Handbook'¹⁵⁸ which provides the most essential texts for the implementation of the Convention in one single reference book. It comprises the text of the Convention; Appendices I and II and III; the standard CITES export/import permit - re-export certificate, and the Resolutions and the Decisions of the CITES COP in effect after the 11th meeting (Nairobi, Kenya. April 2000).

2.8 Public participation

Thanks to the work of the media and civil society, public opinion is increasingly aware of international environmental agreements. Environmental NGOs and indigenous peoples' groups are participating more and more actively in the development and implementation of these biodiversity-related MEAs through their presence in the COPs and other international meetings. They are also involved in projects and policy developments at national and regional level that contribute to reaching the objectives of these international agreements.

Civil society groups have stressed the need for transparency and access to these international processes as governments negotiate and take decisions that have an impact on the global environment and the livelihoods of many communities. The biodiversity-related MEAs covered in this report have close links with environmental NGOs and indigenous groups. They do not just allow them to attend convention meetings but call upon the expertise and advice of some of these organisations to work together in advancing the implementation of these international agreements.

Some MEAs such as Ramsar, CITES and CMS include specific obligations for their Parties to involve civil society in their implementation at the national level. The CCD is also conducting 'dialogue sessions' with NGOs. There is a very strong link between allowing for and facilitating the participation of civil society in the development of biodiversity-related MEAs and their implementation, and increased public awareness of international treaties and their obligations.

2.8.1 CBD

- The Preamble of the Convention affirms the need for the full participation of women at all levels of policy-making and implementation for biodiversity conservation. Article 23(5) of the CBD provides that governmental and non-governmental organisations and agencies 'qualified in fields relating to the conservation and sustainable use of biological diversity' can participate at COP meetings as observers ('unless at least one third of the Parties present objects'). The admission and participation of observers is subject to the

¹⁵⁸ The CITES Handbook can be ordered through the Convention's website at http://www.cites.org/eng/resources/pub_order.shtml (ISBN 2-88323-009-9, 295 x 210 mm, 360 pages, USD 37.50 / GBP 25)

COP's rules of procedure¹⁵⁹. Article 6 of these Rules indicates that observers do not have the right to vote and may participate in the proceedings of any meeting, again unless at least one third of the Parties present objects.

- Section VII of the *Modus Operandi* of SBSTTA on NGO contributions states that the scientific and technical contributions of NGOs related to the fulfilment of this body's mandate, 'will be strongly encouraged'¹⁶⁰.
- As to the promotion of public participation in the implementation of the CBD at the national level, there are numerous requests to Parties in COP decisions, especially regarding the implementation of Article 15, 8(j) and the Convention's thematic work programme:
 - On access to genetic resources and benefit-sharing (ABS): Parties are urged to supply information on national participatory processes for the activities covered in Article 15 including the development and implementation of measures and guidelines on ABS¹⁶¹.
 - In the execution of the programme of work on marine and coastal biodiversity, the involvement of relevant stakeholders including indigenous and local people should be promoted¹⁶². The need to build stakeholder partnerships, community participation programmes, public education campaigns and information products has been identified in relation with the causes and consequences of coral bleaching¹⁶³.
 - The work programme on forest biodiversity should be developed and implemented, at all levels, with relevant stakeholders, recognising that the most important part of the work is action at the national level¹⁶⁴. COP 5 further encouraged Parties to ensure the participation of the forest sector, private sector, and indigenous and local communities and NGOs in the implementation of the programme of work¹⁶⁵.
 - The work programme on inland water ecosystems refers to the need to involve local and indigenous communities in the development of management plans and in projects that may affect inland water biodiversity. Parties should encourage the 'involvement and participation of affected parties, including end-users and communities in policy-making, planning and implementation'¹⁶⁶.
 - The programme of work on agricultural biodiversity includes that Parties should provide opportunities for farmers and local communities, and other relevant groups, to participate in the development and implementation of national strategies, plans and programmes for agricultural biodiversity¹⁶⁷.
 - The programme of work on arid and sub-humid lands includes the need to 'improve consultation, co-ordination and information sharing' among focal points at the national level¹⁶⁸.
 - On incentive measures for implementing the CBD, Parties were encouraged to 'carry out participatory consultation processes at the relevant levels' to define clear and target-oriented incentive measures addressing the causes of biodiversity reduction or loss and unsustainable use¹⁶⁹.

¹⁵⁹ Annex to Decision I/1.

¹⁶⁰ Annex I to Decision IV/16, para.13.

¹⁶¹ Decision III/15, para 1(b)

¹⁶² Decision IV/5, Annex, part B, para.9.

¹⁶³ Decision V/3, Annex, part B, last para.

¹⁶⁴ Decision IV/7, Annex, part E, para.8.

¹⁶⁵ Decision V/4, para.9.

¹⁶⁶ Decision IV/4, paras 9(I)(i) and (iii).

¹⁶⁷ Decision V/5, Annex, part B, Programme Element 3, Activity 3.3.

¹⁶⁸ Decision V/23, Annex I, part II.B, *ways and means*, para.9.

¹⁶⁹ Decision IV/10, part A, para.1(e).

- On public education and awareness, Parties should support initiatives that promote stakeholder participation in biodiversity conservation and sustainable use, as well as those that integrate biodiversity conservation matters into their practices and educational programmes¹⁷⁰.
- On impact assessment, COP 4 emphasised the need to enable the active participation of 'interested and affected stakeholders' in the assessment process, including indigenous and local communities and NGOs¹⁷¹.
- On the implementation of Article 8(j) and related provisions, Parties are urged to 'facilitate the full and effective participation of indigenous and local communities' in the implementation of the CBD. In particular, they are also requested to support the development of registries of traditional knowledge through participatory programmes and consultation with indigenous and local communities. Parties were further invited to increase the participation of representatives of indigenous and local communities in the official delegations to CBD meetings¹⁷². In addition, the agenda of the second meeting of the Ad-hoc Open-ended Working Group on article 8(j) and related provisions¹⁷³ includes the development of participatory mechanisms for indigenous and local communities in policy planning and implementation¹⁷⁴.
- To prepare their national reports, Parties are recommended to conduct a consultative process involving all relevant stakeholders, or draw upon information developed by other consultative processes¹⁷⁵.
- Regarding sustainable use, Parties are urged to develop or explore mechanisms to involve the private sector and indigenous and local communities in initiatives on the sustainable use of biodiversity and in mechanisms to ensure that those communities do benefit from such sustainable use¹⁷⁶.

2.8.2 CITES

- Article XI(7) of the Convention has similar provisions to the CBD on admission of civil society to COP meetings as observers. In addition, CITES (and CMS) include in these provisions a reference to both international and national non-governmental agencies or bodies 'which have been approved for this purpose by the State in which they are located'.
- Both the Plant and Animals Committees have agreed that admission of NGO observers should take place through a regulated procedure that identifies the expertise of both organisations and individuals representing them. CITES meetings only allow one registration per NGO. As to the participation of NGOs in working groups, this is left to the discretion of the working group's chairman, based on the NGO's expertise on the subject discussed¹⁷⁷.
- CITES 's Strategic Vision and Action Plan through 2005 recognise the significant contributions that NGOs have made to the CITES process. Objective 4.1 of the Action Plan aims at encouraging greater NGO participation in CITES outreach. CITES

¹⁷⁰ Decision IV/10, part B, para.1(e).

¹⁷¹ Decision IV/10, part C, para.7.

¹⁷² Decision V/16, paras.12, 17 and 18.

¹⁷³ 4-8 February 2002 in Montreal, Canada.

¹⁷⁴ See document UNEP/CBD/WG8J/2/4 on 'Participatory mechanisms for indigenous and local communities'.

¹⁷⁵ Decision V/19, para.6.

¹⁷⁶ Decision V/24, para.6.

¹⁷⁷ *CITES World - Official Newsletter of the Parties*, Issue 7, July 2001, p.5.

Secretariat should encourage Parties to enhance communication and collaboration with local and national NGOs¹⁷⁸.

2.8.3 CMS

- The same standard rules for admitting observers to the COP meetings apply under the CMS (Article VII(9)).
- COP 6 recognised and thanked a number of organisations 'for their continued involvement in and technical support of the work of the Convention'¹⁷⁹. Among others, the following organisations were invited to participate as observers in the meetings of CMS' Scientific Council, and also to consider close working collaborative arrangements on matters of common interest: Wetlands International, BirdLife International, IUCN, and the World Wide Fund for Nature (WWF).
- Regarding CMS Agreements, all include provisions allowing agencies or bodies with relevant expertise to participate in the Meetings of the Parties to these agreements, as observers. Others such as the African-Eurasian Migratory Waterbird Agreement (AEWA) include provisions on consultation of different institutions and organisations with expertise in their area (Article IX)
- In the case of MoUs on bird species, the work developed by BirdLife International¹⁸⁰ is acknowledged in the MoU concerning Conservation Measures for the Slender-billed Curlew, where secretariat services for the 'Slender-billed Curlew Working Group' are provided by the BirdLife International¹⁸¹. The International Crane Foundation also collaborates with the CMS Secretariat in the implementation of the MoU concerning Conservation Measures for the Siberian Crane.
- The latest CMS Agreement, on the Conservation of Albatrosses and Petrels¹⁸², introduces a new approach as its Article VIII(6) expressly allows 'any relevant scientific, environmental, cultural or technical body concerned with the conservation and management of marine living resources or the conservation of albatrosses and petrels to participate as an observer in sessions of the Meeting of the Parties and its subsidiary bodies'. This Agreement also provides that the Secretariat is to consult and co-operate with a range of institutions, including 'organisations or institutions with competence in the field of conservation of albatrosses and petrels and their habitats'¹⁸³.

2.8.4 Ramsar

- COP 7 formalised the relationship between Ramsar and a number of international NGOs that have been closely associated with the inception and development of this Convention. Resolution VII.3 conferred the status of 'International Organisation Partner of the Convention' to BirdLife International, IUCN - The World Conservation Union, Wetlands International, and the World Wide Fund for Nature (WWF). Other interested

¹⁷⁸ Action Point 4.1.2, see at <http://www.cites.org/eng/decis/11/annex1.shtml>

¹⁷⁹ CMS Resolution 6.7.

¹⁸⁰ The MoU on the Conservation and Management of the Middle-European Population of the Great Bustard also includes a reference to this organisation and the need to take into account its Agricultural and Grasslands Habitat Strategy when devising a medium term international work programme for the Great Bustard.

¹⁸¹ <http://www.unep-wcmc.org/cms/>

¹⁸² Agreement signed in June 2001, not yet in force.

¹⁸³ Article XI(2)(c).

international organisations can apply to the Ramsar Bureau to become official partners. The criteria are included as an annex to this Resolution¹⁸⁴.

- Resolution VII.2 on the Convention's Scientific and Technical Review Panel (STRP)¹⁸⁵ recognised the desirability of co-operation between the STRP and 'a number of expert networks, specialist groups and societies which exist some in association with the official International Organisation Partners of the Convention'. This Resolution modified the composition and *modus operandi* of this body to invite some organisations¹⁸⁶ to participate as observers in the meetings of the STRP.
- Recommendation 6.3 - 'Involving local and indigenous people'- urged Parties to consider representation of local and indigenous people on National Ramsar Committees, and also in the national delegations to COP meetings ('where possible and appropriate'). Operational Objective 2.7 from the Convention's Strategic Plan describes actions intended to 'encourage active and informed participation of local communities, including indigenous people, and in particular women, in the conservation and wise use of wetlands'.
- At COP 6, Parties adopted Resolution VII.8 which 'encourages' Parties to provide for transparency in decision-making with respect to wetlands and their conservation. The Resolution also call for a full sharing of 'technical and other information related to the selection and management of Ramsar sites and other wetlands 'with guarantees of their full participation in the process'¹⁸⁷. The annex to this resolution includes some 'Guidelines for establishing and strengthening local communities' and indigenous peoples' participation in the management of wetlands'. COP 6 decided that Parties should give special attention to reporting on their efforts to implement these Guidelines as part of the National Reports to be prepared for COP8.

2.8.5 WHC

- Participants that are allowed to attend the WH Committee meetings are indicated in its Rules of Procedure¹⁸⁸. Intergovernmental or non-governmental organisations may attend the meetings in an advisory capacity. If they conduct activities in the fields covered by the Convention they can participate as representatives or observers. Representatives of local communities and indigenous groups can participate as members of a State Party delegation or NGO. Representatives from private industry have been invited to attend the Committee meetings¹⁸⁹.
- The WH Centre receives information from civil society on the state of conservation of cultural and natural properties and on a large range of other issues. Promotional activities and education are addressed to civil society and there is a special project on education on World Heritage for young people¹⁹⁰ (see section 2.5.4 above).

¹⁸⁴ 'Rules for conferring the status of International Organisation Partner of the Convention on Wetlands', see at http://www.ramsar.org/key_res_vii.03e.htm

¹⁸⁵ Established by Resolution 5.5.

¹⁸⁶ The Society of Wetland Scientists; the International Association of Limnology; the Global Wetlands Economics Network; the International Mire Conservation Group; and the International Peat Society.

¹⁸⁷ Resolution VII.8, para. 17.

¹⁸⁸ Section III, Rules 6 to 8.

¹⁸⁹ Personal communication from Ms.Marjaana Kokkonen, WH Centre.

¹⁹⁰ Id.

2.9 Regionalisation

The use of regional and sub-regional institutions and mechanisms regarding the implementation of biodiversity-related MEAs is on the increase. Most countries share much of the biological diversity present in their territory with other countries in the region. Migratory species, cross-border protected areas, increasing pressures on biological resources, common threats, and limited financial and human resources are all factors that drive countries towards co-operation and collaboration.

In different degrees, these conventions focus on regions to tackle both strategic and implementation issues. At the same time, a trend towards internal de-centralisation in many countries creates complex institutional systems where powers and responsibilities are divided and allocated among different 'administrative layers'. This situation results in an increased number of authorities involved in the implementation of multilateral environmental agreements.

- There are a number of regional and sub-regional institutions¹⁹¹ that support and try to co-ordinate national activities and policies related to the implementation of MEAs. In addition, some regions have their own treaties on nature conservation¹⁹² that now interface with more recent conventions such as the CBD.

The mandate, membership and funding of regional and sub-regional intergovernmental organisations are key factors that determine the effectiveness of these bodies. Regarding the conservation of biological diversity and its sustainable use, and in particular the issue of access to genetic resources and the sharing of benefits derived thereof, regional and sub-regional initiatives have been undertaken in Central and South America, Africa, South East Asia and the South Pacific. Regional agreements can also support the implementation and effectiveness of global treaties. An example is CITES and the 1994 Lusaka Agreement on Co-operative Enforcement Operations Directed at Illegal Trade in African Wild Fauna and Flora, as well as the 1999 SADC Protocol on Wildlife Conservation and Law Enforcement.

- Regional agencies could also play an important role in identifying the main priorities and challenges faced by the region as a whole when implementing the global and regional biodiversity-related conventions. Some global conventions include regional objectives, such as the CMS and its regional agreements and MoUs.
- The Secretariats of some of the biodiversity-related conventions follow a regional division to monitor and co-ordinate the implementation of the agreement in the different regions, such as CITES and Ramsar.

¹⁹¹ E.g. the Andean Community, the Association of South East Asian Nations, the Organisation for African Unity, now African Union; the South Pacific Regional Environment Programme, etc.

¹⁹² E.g. the 1968 African Convention on the Conservation of Nature and Natural Resources, the 1986 Noumea Convention for the Protection of the Natural Resources and Environment of the South Pacific Region, etc.