

# **IUCN Environmental Law Programme 2008**

## **The Year in Review**

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### **1. Introduction**

The mission of the IUCN Environmental Law Programme (ELP) is to advance environmental law through the development of legal concepts and instruments, and through building the capacity of societies to employ environmental law in furtherance of the IUCN mission. The ELP is an integrated programme of activities that assists decision makers with information, legal analysis, advisory services, legislative drafting, mentoring and capacity building at national, regional and global levels. The Programme also provides the opportunity and a forum for governments, non-governmental organizations and others to network and to share information and discuss ideas.

This vast Programme of activities is carried out through the co-operation of the Commission on Environmental Law (CEL), one of six IUCN Commissions, which consists of an extensive global volunteer network of over 530 environmental law specialists in more than 138 countries, and the Environmental Law Centre (ELC) with an office established in Bonn, Germany, staffed with legal and information specialists, and is operated in cooperation with a number of IUCN lawyers based in regional and country offices around the world.

The ELC works in collaboration with CEL members, IUCN staff and focal points in IUCN headquarters and regional and country offices. The ELC is also the Management Unit for ECOLEX – The Gateway to Environmental Law (see [ECOLEX.org](http://ECOLEX.org)), a web-based information system operated as a joint initiative of the Food and Agriculture Organization (FAO), IUCN and the United Nations Environment Programme (UNEP).

The highlight of 2008 was the convening of the IUCN World Conservation Congress (WCC) in Barcelona. The Congress, which meets every four years, is the world's only democratic environmental forum where more than 1,000 IUCN members—both States and nongovernmental organizations—define the conservation agenda for the years ahead. The 10-day event brought together more than 8,000 of the world's leading decision makers in sustainable development. The event focused on three key challenges: how to tackle climate change, how to safeguard the diversity of life in all its forms, and how to make sound environmental management the foundation of healthy people and economies. Climate change was on everybody's mind and was addressed in many reports and presentations. The IUCN Red List showed that we are facing an extinction crisis, but that properly funded and well planned conservation measures can be successful – with close to 40 species of mammals showing signs of recovery. Principles on high-seas governance were adopted and principles guiding forest management to face climate change were announced by a group including business, indigenous and conservation groups, international financial institutions and trade unions.

The IUCN Programme 2009-2012 was also approved. The 4-year plan provides the framework for planning, implementing, monitoring, and evaluating the conservation work undertaken by the Commissions and the Secretariat for members. The Members Assembly also adopted over 120 Resolution touching on all aspects of IUCN's work. Particular highlights for the ELP were resolutions on the rights based approach, achieving conservation of marine biodiversity in areas beyond national jurisdictions, arctic legal regime for conservation and the maintenance of ECOLEX: the gateway to environmental law. Further details of the resolutions that impact on the work of the ELP are found in the following section.

Further highlights of the year were the CEL Wolfgang Burhenne award to Parvez Hassan that was announced by the chair of CEL, Sheila Abed, at the Congress as well as the Elizabeth Haub Prize for Environmental Law that was awarded to Francoise Burhenne-Guilmin and David Freestone in November.

## **2. 2008 World Conservation Congress, Barcelona, Spain**

IUCN held its World Conservation Congress (WCC) from 5 to 14 October in Barcelona, Spain. The WCC Forum preceded the Members' Assembly. The Forum provided the IUCN members, its Commission and Secretariat an opportunity to feature their activities through various workshops, knowledge cafes and learning opportunities.

A selection of events most relevant to the IUCN Programme were mapped under selected thematic 'Journeys'. The "*Law and Governance Journey – Hotspots in environmental laws and governance*" illustrated how law and governance permeate all areas of IUCN's work and are at the heart of members' concerns. It also demonstrated how the IUCN ELP has an essential role to play in the development and implementation of global, regional and national environmental law, how this task is influenced by the evolution of the concept of good governance, and how governance and law are inter-related. The Journey started by addressing the fundamental basis of laws and governance, with a CEL workshop on 'Keeping Nature Alive: the Ethical Foundations of Nature Conservation in the 21st Century'. It then featured activities of the ELP in various key fields through a number of CEL-organized events that were particularly well received, namely workshops on:

- 'Ocean Governance in the 21<sup>st</sup> Century: Gauging the Law and Policy Tides';
- 'Biofuels: Potential, Challenges and Solutions';
- 'Approaches to Environmental Law to manage the soil ecosystem and Biodiversity Security';
- 'Armed Conflict and Environment: Protecting the Environment During War and Improving Post Conflict Natural resource management'
- 'Developing Effective Legal and Institutional Frameworks for Protected Areas Part 2: The CBD PoW on Protected Areas and Innovative governance in the field'.

An ELC-organised event on 'Conservation with Justice: A Rights-based Approach', and a workshop on 'Developing Effective Legal Frameworks for Protected Areas' organized by the World Bank were also seen to be highlights of the Forum. Other significant events are presented in the section on thematic issues below.

The Journey also explored pressing governance questions in all areas of IUCN's work, and their implications for environmental law, as well as providing several paths to the relevant work of other IUCN Programmes and IUCN members and partners in related fields.

With respect to the Members Assembly, Sheila Abed was re-elected Chair of CEL for another 4 years term. In addition, the Chair of CEL held a well attended reception for CEL members to meet and discuss upcoming issues.

As previously noted, the IUCN 2009-2012 Programme was adopted by the Members Assembly, along with a number of resolutions and recommendations. In relation to the

ELP, a number of resolutions were adopted that impact in the Programme. Those resolutions are set out below.

- 4.030: Promoting transparency to achieve sustainable fisheries;
- 4.031: Achieving conservation of marine biodiversity in areas beyond national jurisdictions
- 4.034: IUCN's engagement on Antarctica and the Southern Ocean;
- 4.033: Arctic legal regime for conservation
- 4.045: Accelerating progress to establish marine protected areas and creating marine protected areas
- 4.052: Implementing the UN Declaration on the Rights of Indigenous Peoples
- 4.056: Rights-based approaches to conservation
- 4.063: The new water culture – integrated water resources management
- 4.064: Integrated coastal management in the Mediterranean – the Barcelona Convention
- 4.065: Freshwater biodiversity conservation, protected areas, and management of transboundary waters
- 4.066: Improving the governance of the Mediterranean Sea
- 4.070: Sustainable mountain development
- 4.071: Forest fire recovery and national park protection
- 4.076: Biodiversity conservation and climate change mitigation and adaptation in national policies and strategies
- 4.077: Climate Change and Human Rights
- 4.081: Equitable access to energy
- 4.085: Establishing the 1% Earth Profits Fund and Sustaining Government Conservation Finance;
- 4.091: Strategic environmental assessment of public policies, plans and programmes as an instrument for conserving biodiversity
- 4.092: Maintenance of ECOLEX: the gateway to environmental law
- 4.093: Legal aspects of the sustainable use of soils
- 4.095: African Convention on the Conservation of Nature and Natural Resources
- 4.096: The International Academy of Environmental Law
- 4.097: Liability and compensations mechanisms for environmental crimes during armed conflicts
- 4.100: Military activities detrimental to the environment
- 4.101: International Covenant on Environment and Development

Work has commenced in all areas of the ELP family to implement and give effect to these resolutions.

### **3. Thematic Issues**

#### ***(A) Marine Issues***

The ELC, in collaboration with the Global Marine Programme and the CEL Subgroup on High Seas Governance have undertaken an in-depth analysis on the issue of a potential Implementation Agreement to UNCLOS on the conservation and management of marine

biological diversity in areas beyond national jurisdiction (ABNJ), and other issues relating to high seas governance.

This work contributed to the development of a new IUCN series of four environmental policy and law papers online which ELC published in April. These papers presented ideas that were developed by an international team of experts with respect to a range of regulatory and governance issues relating to marine biodiversity in ABNJ. The papers were prepared with the support from the German Federal Ministry for the Environment, Nature Conservation and Nuclear Safety and the Dutch Ministry of Agriculture, Nature and Food Quality. The first three papers covered: an analysis of the regulatory and governance gaps in the international Regime for the Conservation and Sustainable Use of Marine Biodiversity in ABNJ; options for addressing regulatory and governance gaps in the International Regime; and a case study on the Mid-Atlantic Range and elements of a possible implementing agreement to UNCLOS.

An ELC legal officer attended an Ad Hoc Open Ended Informal Working Group Meeting on Marine Biodiversity in New York to study issues relating to the conservation and sustainable use of marine biological diversity beyond national jurisdiction. At a well attended side event the legal officer presented the fourth paper entitled "*Elements of a Possible Implementation Agreement to UNCLOS for the conservation and Sustainable Use of Marine Biodiversity in Areas beyond National Jurisdiction*".

### **(B) Climate Change**

From January to May, 2008, Prof. Meinhard Doelle, a specialist in international and domestic law relating to climate change, joined the staff of ELC to work on linkages between biodiversity and climate change. He collaborated with the ELC in developing a project involving research on linkages between the UN Framework Convention on Climate Change (UNFCCC) and other Multilateral Environmental Agreements. He also collaborated on a project on law and policy approaches to offshore renewable energies such as offshore wind, tidal and wave energy.

In March 2008, IUCN Legal Advisor, Pepe Clarke, presented a paper on Climate Change and the Law in the Pacific Islands at the National Environmental Law Association (NELA) annual conference in Fremantle, Western Australia. The paper, co-authored with CEL member Ilona Millar, examined the following themes: the impacts of climate change on Pacific islands; the role of Pacific island states in international climate change negotiations; the development of regional climate change policy and programs in the Pacific; and the role of law in supporting community adaptation to climate change. The conference also provided an opportunity to meet with CEL members, members of the judiciary and the NELA executive to discuss opportunities for collaboration in the Pacific region.

The Specialist Group on Climate Change and Energy continued to work on bioenergy in collaboration with the Energy Group and Climate secretariats in Gland. It also hopes to be able to contribute to the negotiations on climate change mitigation and adaptation policies for a successor to the Kyoto Protocol under the UNFCCC as they relate to the Climate Change Thematic priority area 2.

From 12–13 June, UNFCCC climate change negotiations were held in Bonn. Members of the ELC attended different Sessions of the Subsidiary Bodies and Ad Hoc Working

Groups. The ELC's work on climate change contributes to recommendations that were made by IUCN at the negotiations.

### **(C) Forests**

In 2008, the ELC continued its role as legal advisor in the IUCN project "Strengthening Voices for Better Choices" (SVBC) which started in 2005 and comes to an end in 2009. In the six project countries - Brazil, Democratic Republic of Congo, Ghana, Tanzania, Sri Lanka, and Vietnam - the analyses of the statutory and customary legal frameworks, as well as the economic incentives and disincentives related to forest governance were finalized. The ELC and the IUCN Regional Environmental Law Programme for Asia developed the analytical structure for the country assessments and reviewed several drafts during the project's life time. As part of the SVBC project, in March IUCN coordinated a briefing session for high-ranking government officials to raise awareness about EU's FLEGT Action Plan, co-hosted by the government of Vietnam. In November, another roundtable was held.

The ELC also supported and coordinated the establishment of the IUCN Commission on Environmental Law's new Forest Specialist Group which was launched in January 2008. This new network of forest law experts is comprised of 75 members from all over the world who are collaborating in two sub-groups. One sub-group is focusing on legal issues related to illegal logging; the other sub-group is looking into legal questions in projects that aim at reducing emissions from deforestation and forest degradation (REDD). The ELC hosted the first two meetings of members of this specialist group in May during the CBD CoP-9 in Bonn, and in October during the IUCN WCC in Barcelona.

With the support of the Forest Specialist Group, the ELC then provided a legal analysis of the proposed European Commission's so-called "Due Diligence" regulation. This EC regulation lays down the obligations of operators who place timber and timber products on the EU market. Its main objective is to complement and underpin the EU's current policy framework and support the international fight against illegal logging and its related trade. The joint legal analysis helped the IUCN Forest Conservation Programme to submit an IUCN response to the above mentioned draft regulation.

Also, a legal officer of the ELC and the co-chairs of the Forest Specialist Group submitted an article on "*Reducing Emissions from Deforestation and Forest Degradation: The need for a rights-based approach*" to the IUCN Arbor Vitae Newsletter which reaches some 7,000 conservation professionals and is produced three times a year. In December 2008, the ELC and the Forest Specialist Group then started the development of different REDD case studies which shall focus on legal questions such as carbon ownership, sharing REDD benefits, and public participation. The case studies will lead to a new IUCN ELP publication which is planned to be launched at the UNFCCC COP 15 in Copenhagen in December 2009.

### **(D) Access and Benefit Sharing**

At the beginning of 2008, the ELC launched the so-called "TEMATEA Module" on Access and Benefit Sharing (ABS). The TEMATEA Project on Issue-Based Modules is a joint UNEP-IUCN initiative which is currently hosted by the IUCN Countdown 2010. It aims at supporting a better and more coherent national implementation of biodiversity-related conventions following a two-track approach. First, the Issue-Based Modules are

web-based tools that provide a logical, issue-based framework of commitments and obligations from regional and global biodiversity-related agreements. Second, the Issue-Based Modules are further supported at the country level to promote national cooperation and communication across sectors and conventions.

The ABS module, which was developed by the ELC, includes an analysis of ABS obligations and commitments (including COP decisions) structured around a core set of thematic sections from a number of MEAs and international instruments, such as CBD, UNCCD, CMS, ITPGRFA, UNCLOS, CITES, TRIPs, WIPO, WSSD Plan of Implementation, UN Permanent Forum on Indigenous Issues, and EU Directive 98/44/EC on the legal protection of biotechnological inventions. All TEMATEA modules (so far six) are available at <http://www.tematea.org>.

In addition, Peru was selected as a pilot country for the Latin American and Caribbean region to test the TEMATEA ABS module at the national level. The outcome of the exercise, namely a draft consultation text and proposed activities, was presented for adoption to stakeholders and ABS experts during a national workshop in January 2008.

In support of the process of elaborating an international regime on ABS, and as part of the collaboration with the Federal Environment Ministry (BMU) of Germany – host country of the ninth Convention of the Parties to the Convention on Biological Diversity (CBD CoP-9) in May 2008 – the ELC has continuously provided technical legal advice on a broad range of ABS-related issues.

The ELC has contributed to Germany's efforts to engage in a constructive stakeholder dialogue on ABS, and in 2008 the ELC attended the negotiations for an international regime on ABS and participated in various side events at CBD CoP-9.

As part of the ELC's on-going support to BMU, it prepared and undertook a seminar on compliance issues related to ABS in September 2008 in Bonn. An ELC legal officer presented an overview of the compliance challenges in the ABS international regime and facilitated a range of compliance scenarios, which highlighted possible gaps in compliance measures foreseen under the international regime. In addition, there were presentations on the role of arbitration in ABS compliance, and on customary law.

In December, an ELC legal officer attended a workshop on traditional knowledge and the International ABS regime. The workshop was hosted by the Austrian Federal Ministry of Agriculture, Forestry, Environment and Water Management in Vienna, and brought together 25 participants, acting in their personal capacity to encourage an open exchange of views. The workshop focused on three fictional ABS scenarios involving traditional knowledge associated with genetic resources which resulted in an in-depth discussion of the practical challenges of addressing traditional knowledge, and how such challenges could be dealt with in the international regime. It is hoped that the outcomes will contribute to the on-going negotiations on the international regime on ABS.

To support the on-going ABS negotiations, the ELC was invited by the Secretariat of the CBD to prepare a study on the relationship between the international regime on ABS and the International Treaty on Plant Genetic Resources and the FAO Commission on genetic resources for food and agriculture. The draft study was placed on the CBD website for review in December and will be finalised as an information document for the 7<sup>th</sup> meeting of the ABS Working Group, due to be held in April 2009.

In relation to plant genetic resources, in May, an ELC legal officer participated in a Capacity Building Workshop for the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGR). The ELC also prepared a legal paper and participated in an expert group under the ITPGR which discussed how to improve implementation of the standard material transfer agreement.

### ***(E) Protected Areas***

The ELC continued to implement a three year project that aims to develop Guidelines for national legislation on protected areas (PAs). Work in 2008 started with the development of an extensive outline of the Guidelines and of a matrix for the analysis of national legislation, followed later in the year by the development of two successive working drafts. In parallel, case studies to illustrate the Guidelines were selected, and authors were sought to carry them out. This work was interlaced by consultations of the Steering Group, presentations and discussions at a number of events throughout the year, and culminated in opening Working Draft 2 to an online review process.

In May, the ELC held a side event at the CoP-9 to CBD, entitled “*Protected Areas: the critical Role of Law*”. This event provided an opportunity to present the project, its rationale and methodology, and discuss the role of law in underpinning the infrastructure and management necessary for successful PAs and PA systems. A discussion with the audience indicated a strong support for the preparation of the Guidelines, and emphasized the need for case studies to illustrate them.

A workshop followed in June in Ottawa, organized jointly by the University of Ottawa, the IUCN Academy of Environmental Law and the ELC, on the theme “Protected Areas and the Law”. Various legal PA systems were presented, and discussions among the gathering of experts throughout the Workshop and side events provided a wealth of information for the development of the Guidelines. It also provided a unique opportunity to present the first draft of the Guidelines.

The IUCN WCC Forum in October provided the next opportunity to stress the importance of a sound legal infrastructure for PAs. Two twinned Alliance Workshops on that subject were held in Barcelona, under the banner ‘*Developing Effective Frameworks for Protected Areas*’. The first, led by the World Bank in tandem with CEL/WCPA Task Force on PA and the ELC, stressed the need for PA managers and funding institutions to be able to rely on well developed and modern legislation, inter alia to ensure PA sustainability. A main message was that unless legal tools are available upstream, economic and social measures that are put in place to establish and maintain PAs are unlikely to achieve their goals. The usefulness of the Guidelines to create or improve that infrastructure was stressed. The second Workshop, led by the CEL Group on Protected Areas, in cooperation with TILCEPA, concentrated on innovative PA governance mechanisms involving indigenous peoples, allowing space for customary law to function and continue to evolve. A major success reported was the achievement of the WaiWai people from south Guyana in creating of their own 2.300 square miles PA using national law. The WCC Forum also provided opportunities for side meetings specifically considering the ELC Guidelines projects, its first draft, and the planned case studies.

In parallel to taking stock of this wealth of inputs, Working Draft 2 of the Guidelines was made available for comments from September to December to well over 100 experts in

the fields of PA law and/or management, drawn from the CEL and WCPA networks. This proved to be a highly participatory process.

Meanwhile, two types of case studies are being prepared. The first category of case studies looks at national framework legislation from Australia, Canada, France, Peru, Philippines, and South Africa. The second category of case studies illustrates specific types of PAs through the study of one site selected as representative of: marine PAs, transfrontier PAs, community-conserved areas, indigenous peoples-conserved areas, and private PAs.

The next draft of the Guidelines is the first goal for 2009, and will take stock of all inputs received. A workshop to review the draft and the case studies is planned for mid-2009.

IUCN Regions have also worked on Protected Areas and the Law; among them the South Pacific, with the following report:

In April 2008, IUCN presented training for PA managers and conservationists on Legal Mechanisms for the Establishment and Management of Terrestrial Protected Areas in Fiji. Pepe Clarke, IUCN Legal Advisor, presented the following topics: the international and national policy context for the establishment and management of PAs in Fiji; and the legal mechanisms currently available for the establishment and management of terrestrial PAs in Fiji. Following the workshop, IUCN worked with its members to promote enhanced national coordination on PA issues, including the establishment of a national PAs committee.

IUCN also prepared a legal briefing paper on existing legal mechanisms for the establishment and management of terrestrial PAs in Fiji. The paper contained case studies of existing conservation initiatives and provided practical guidance for utilizing legal mechanisms to conserve biological diversity and natural resources. It called for the development of national PA legislation in order to support the establishment of an integrated and effectively managed PA network in Fiji.

### ***(F) Ecosystem Services***

Payments for Environmental Services (PES) are increasingly being proposed as a promising conservation instrument. However, so far very little material exists on the concrete legal and institutional implications of PES schemes. The ELC has thus started a project on PES with the goal of developing guidelines for the legal and institutional structures required to support water-related PES schemes and their implementation. In January 2008, the ELC and the Katoomba Group (TAKG) began implementing a legal analysis initiative with the aim of better understanding the legal and institutional frameworks of water and carbon related PES schemes. The joint ELC-TAKG initiative will lead to a publication under the IUCN Environmental Policy and Law Publication (EPLP) series which is planned to be ready by the beginning of 2009 and will be published in English and Spanish.

As part of this joint initiative, in August (6–8) the ELC and TAKG jointly organized a workshop in Lima, Peru, which brought together PES experts from Peru, Bolivia, Colombia, Ecuador, Costa Rica, Mexico and the United States. In the course of the three days, participants presented the findings of their studies which analyze selected PES projects based on a legal questionnaire developed at a previous workshop in Bonn in December 2007. In order to better understand the results from their studies and develop guidelines for the legal and institutional structures required to support PES schemes and

their implementation, separate groups focused on the following issues: Necessary legal and institutional frameworks for PES; Legal implications of property and resource rights in PES; and Contract design implications for PES.

Also, in 2008 the ELC, in cooperation with the IUCN Regional Office for Europe and the Confederation of European Forest Owners, developed a report on groundwater related PES in European forests which was funded by the European Commission. In this report, the state of development of forest-groundwater related PES schemes was explored. It was demonstrated that PES structures exist in EU member states which fund afforestation and sustainable forest management practices and thus support, maintain or even develop the protective functions of forests with regards to groundwater. Case studies from Denmark, Germany, Spain and Austria showed that PES schemes can comprise diverse structures which range from voluntary compensation to non-voluntary compensation schemes for forest maintenance. The report further showed that the EU Water Framework Directive (WFD), as well as the groundwater and forest-related legislation of several EU member states have the potential to promote the development of future forest-groundwater PES in more EU member states. In addition, a variety of EU funds and financial instruments address environmental and social dimensions of sustainable forest management and environment in general. Those funds might provide additional financial resources to develop and implement forest-groundwater PES schemes.

### **(G) Water Governance**

Throughout 2008, the ELC continued its close collaboration with the IUCN Water and Nature Initiative (WANI) which has worked with 80+ partner organizations across the world to demonstrate water management that supports healthy rivers and communities. A toolkit series has been developed under WANI to support learning on how to mainstream an ecosystems approach in water resource management. Aimed at practitioners, policy-makers and students from NGOs, governments and academia, the series builds on practical case studies to show how key principles of sustainable water management are implemented in river basins. In addition to the already existing toolkits "*FLOW: the essentials of environmental flows*", "*VALUE: counting ecosystems as water infrastructure*", "*PAY: establishing payments for watershed services*", and "*CHANGE: adaptation of water resource management to climate change*", a new toolkit "*SHARE: managing water across boundaries*" was developed jointly by the ELC and the IUCN Water Programme in March 2008. The WANI toolkit series continues to grow, and in 2009 it will be complemented by the publications "*RULE*" and "*NEGOTIATE*".

In March, a two-day workshop facilitated by the ELC and the Water Management Unit of IUCN Mesoamérica, within a Regional Workshop on Application of Environmental Flows in River Basin Management organized by GEF-IW:LEARN and the IUCN Water Programme was held in the city of Foz do Iguacu, Brazil. The workshop, which had the objective of promoting an understanding of the political, legal and governance issues relating to the provision of e-flows (within one country, and in a transboundary context), was organized as a role-play exercise in order for participants to understand the power games within a river basin, and how they affect the achievement of sustainable solutions; the challenges for creating an enabling policy for the provision of environmental flows within a basin-wide context, the necessity to establish multi-stakeholder platforms, and the incentives for building political engagement and seeking

agreeable solutions. Participants to this event came from all the Americas, including Mesoamérica, South America, and the Caribbean.

In June, Professor Amidou Garané, from the University of Ouagadougou (Burkina Faso) visited the ELC to work on international rivers governance related to the Volta Basin in West Africa.

From 12–14 July the ELC participated in the first IUCN REWARD workshop held in Cairo, Egypt. The workshop was held under the patronage of HE Dr Mahmoud Abu Zeid, President of the Arab Water Council and Egyptian Minister of Water and Irrigation. During the workshop, regional and water experts discussed a regional situation analysis on Integrated Water Resources Management, and in particular Groundwater Management, based on a number of country studies. In small working groups the current obstacles to a more sustainable use of water resources and possible future solutions were identified. Among others, the need for further development of the countries' water-related legislation, institutional reforms and capacity building to ensure better enforcement of the existing legislation, and development of bilateral agreements between countries sharing water resources were highlighted. The first REWARD workshop also provided an opportunity to launch the Regional Dialogue on Sustainable Groundwater Management. This Dialogue will become operational through a series of Regional Dialogue Experts Meetings over a period of 4 to 5 years. The dialogue will lead to a high level policy meeting, where possible avenues for more sustainable use of groundwater can be translated into long term policies.

Continuing with the capacity building process the ELC and the Water Management Unit of IUCN co-hosted an interactive event, which took place from 16-18 July in La Antigua, Guatemala. The event brought together several stakeholders from the governmental sector, NGOs and civil society, and focused on negotiating agreements for conflict resolutions on shared waters. The event contributed to the discussion around the legal and political aspects relating to shared waters (rivers, lakes, wetlands and coastal zones). It focused specifically on building capacities by analyzing negotiation processes and agreements for conflict solving. During the event several different methodologies were applied, including conferences and roundtables, but it was indistinguishably characterized by a learning-through-role-playing exercise in which the participants assumed different roles from the ones they carry out in their normal professional lives. This allowed all the participants to experience the different standpoints of traditional stakeholders within water conflicts, along a pre-designed illusionary river basin. The experiences lived through the event helped the participants to understand how to improve their negotiation skills, especially in water scarcity scenarios, and to explore the benefits of cooperation through water arrangements, for delivering integrated resource management on transboundary waters.

The WCC Event *“International Water Management: Water Law In A Transboundary Setting”* was one of the key side events held in the pavilion. The event focused on integrated water resources management, processes that promote the coordinated development and management of water, land and related resources at the river basin level, and its required efficient legal framework to provide clear rules and procedures. The role of law was highlighted as important at all stages of the planning, design and implementation of water management systems. A number of concrete legal issues were addressed such as ownership of the water, shared responsibilities, possible injuries for actions and uses by one state, mechanisms for cooperation among riparian states,

allocations and restrictions for different uses, and methods for peaceful settlement of disputes.

### **(H) Soils**

In May 2008, three Specialist Group members made presentations to the International Soil Conservation Organization conference in Budapest including the implications of the proposed European Soil Framework Directive from an Irish Perspective (Aoife Shields, Ireland); integrating the normative principles of sustainability and the precautionary approach into water and soil conservation (Assoc Prof David Grinlinton, New Zealand); and contaminated soil legislation - necessary inclusions with examples showing their effectiveness (Dr Steven Baveling, Australia). A paper was also presented by Ms Redia Atienza (the Philippines) on legislative and institutional aspects of soil and water conservation in the Philippines. In July 2008 Dr. Irene Heuser (Germany) presented a paper to the Berlin Conference "Reconciling Human Existence and Ecological Integrity" of the Global Ecological Integrity Group (GEIG) on European Soil Protection Law, including the scope of the Draft EU Soil Framework Directive.

In October 2008, Professors Ben Boer and Robert Fowler and Dr Bernard Vanheusden presented the Specialist Group's alliance workshop to the WCC in Barcelona, on approaches to environmental law to manage soil ecosystems and biodiversity security. This covered the need for new international approaches to the sustainable use of soil; the development of national legal and policy frameworks for sustainable use of soil and addressing desertification; and a case study on legislative guidelines for managing contaminated soils. Various new areas of interest developed in discussions between Specialist Group members and interested parties at the Congress, including input to the Copenhagen Climate Change conference in 2009, development of a Memorandum of Understanding between the CEL and the European Soils Bureau on soil legislation initiatives, and an input to the European Soil Framework Directive process.

### **(I) Human Rights and Environmental Law**

Throughout 2008, the ELC continued its research and debate about the application of a rights-based approach (RBA) to conservation. The publication "*Conservation with Justice: A Rights-Based Approach*" has been developed with the support of CEL members and will be printed in 2009.

In May, the ELC presented the findings of the publication, in particular the suggested step wise approach for implementing the RBA at an international seminar on "*Environmental Law from the Human Rights Perspective*" which was organized by the Heinrich Böll Foundation in Zagreb, Croatia.

The ELP's RBA to conservation work was also presented as part of three so-called "Journeys" on Rights and Conservation, Law, as well as Forest at the IUCN WCC in Barcelona. The Workshop on "*Conservation with Justice: A Rights-based Approach*" was organised by the ELC and provided an opportunity to examine what the concept of RBA can mean in theory, and how it may be applied in practice to develop law and policy in the future. The event aimed to inform all interested actors (governments, civil society and private sector) about the concept of RBA and its potential contribution to guiding activities that, if unrestrained, may have a detrimental impact on conservation, as well as people's livelihoods. The workshop also reflected the step wise approach in

the context of Reducing Emissions from Deforestation and Forest Degradation (REDD) in order to learn and discuss if the suggested step wise approach is necessary, useful and practical to shape future REDD policies and projects. The work was explicitly welcomed and recognized by the IUCN membership in IUCN WCC Resolution 4056 "Rights-based Approaches to Conservation". In its Annex, this resolution also adopted a number of principles concerning human rights in conservation which were prepared by the ELC. These principles reflect several RBA criteria which are suggested in the ELP's step wise approach.

In November 2008, the step wise approach on how to apply RBA to conservation, as well as a draft chapter which tests this approach in the context of the UNFCCC's Clean Development Mechanism (CDM) were sent to the United Nation's Office of the High Commissioner for Human Rights (OHCHR) as part of a joint IUCN submission. IUCN's input helped to inform the OHCHR in its process leading to the development of an analytical study on climate change and human rights which will be finalized in early 2009.

Furthermore, together with IUCN's Social Policy Advisor and a member of the IUCN Commission on Environmental, Economic and Social Policy (CEESP), a legal officer of the ELC has contributed as co-editor to an upcoming publication on "*Rights Based Approaches: Exploring Issues and Opportunities for Conservation*" by the Center for International Forestry Research (CIFOR).

On 4 June, the IUCN Regional Office for Oceania presented training on human rights and the environment for lay magistrates from Tuvalu, Kiribati, Vanuatu, and the Solomon Islands. The training session introduced participants to the linkages between human rights and the environment, explored key human rights and environmental issues in the Pacific islands region, including climate change; reviewed key legal instruments, including international human rights conventions and national constitutions; and discussed the integration of human rights and environmental issues into the practice of lay magistrates.

### **(J) Ethics**

In March, South African National Parks hosted BEP for the project's second case study, "Table Mountain National Park Workshop: South African National Parks Case Study". The workshop focused on conservation management through social upliftment. The Center for Humans and Nature, a US-based non-profit organization, then sponsored a Synthesis meeting in June to review the work-to-date and prepare the project for the IUCN Congress. Two formal reports were published by the ELC, and one is currently in process for the SANParks workshop. "*The Biosphere Ethics Project: Implementing the Bangkok World Conservation Congress resolution to draft a code of ethics for biodiversity conservation*" details the origination of the project and the recommendations that resulted from the inter-commission meeting in Gland in 2005. The second report, "*Keeping Nature Alive: Toward a Code of Ethics for Biodiversity Conservation*", gives a report of the first case study of Chicago Wilderness, a regional consortium of over 200 governmental and non-governmental organizations.

The ESG was active at IUCN's WCC in Barcelona. The ESG sponsored an Alliances Workshop, "Keeping Nature Alive: the ethical foundations for nature conservation in the 21st century," which introduced and opened dialogue on the key themes resulting from

BEP and the work of the Governance for Sustainability project; and highlighted one of our key partners, Earth Charter International. A key theme from BEP, "Keeping Nature Alive," was also formally used by IUCN throughout the Congress. Brendan Mackey, ESG Co-Chair for 2007-2008, was elected to the IUCN Council as the Representative for Oceania.

ESG Chair Klaus Bosselmann, founder Ron Engel and member Prue Taylor, also launched their book, "*Governance for Sustainability: Issues, Challenges, Successes*," a result of the joint effort between the Chair of the CEL, ESG and the ELC to advance the work of the Governance for Sustainability project.

Several members of the ESG are also active with the Global Ecological Integrity Group, an interdisciplinary network whose mandate is to sustain global ecological integrity and human health through science, ethics and law. The annual meeting of GEIG was in Berlin in July and several ESG members gave paper presentations and participated in an ESG side meeting.

### ***(K) Indigenous Peoples***

John Scott, co-chair of the Specialist Group on Indigenous People, gave an overview of wildlife management practices and customary laws, and in particular referred to Arctic examples provided by native hunters and traditional knowledge holders at a recent CBD workshop held in Helsinki<sup>1</sup> (March 2008). Using common principles in diverse customary legal systems and various practical examples he demonstrated that many "new" conservation principles are actually principles that indigenous peoples have used for centuries to care for their lands and waters e.g. respect for nature, don't take more than you need, ensuring that animals which are hunted do not suffer unnecessarily, and the spiritual and scientific understanding that man is within nature not separate from it.

Tasneem Balasinorwala of TILCEPA reviewed South Asia's progress on the implementation of Element 2 of the CBD Protected Areas Programme of Work and highlighted the importance of incorporating traditional knowledge into PAs. There was an extremely lively and informative discussion from participants. A key consideration that emerged was the importance of building constructive relationships with indigenous peoples on the basis of trust, long term commitments and personal integrity in meeting those commitments. The event provided many areas for further development within the specialist groups. The event was complemented by a second event held jointly by the ELC, the WCPA/CEL Task Force on Protected Areas and the World Bank, and was an excellent example of cooperation among different IUCN bodies as well as cooperation with a major development agency. The event was chaired by Melinda Janki, a member of the CEL steering committee and co-chair of the WCPA/CEL Task Force.

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<sup>1</sup> International Expert Meeting On Responses To Climate Change For Indigenous And Local Communities And The Impact On Their Traditional Knowledge Related To Biological Diversity - The Arctic Region Helsinki, 25-28 March 2008, CBD official document number UNEP/CBD/EM.CC-ILC/4.

### ***(L) Armed Conflict and the Environment***

In 2008 and early 2009, the Specialist Group on Armed Conflict & the Environment continued its work along two themes: legal protection of the environment during armed conflict and the role of natural resources in post-conflict peacebuilding. At the WCC, the Specialist Group convened a well-attended Alliance Workshop that highlighted work to date and laid the ground for continuing efforts. The Alliance Workshop was part of a series of coordinated events by the Specialist Group and other institutions at the Congress working on armed conflict and the environment.

The Specialist Group's initiative to Strengthen Post-Conflict Peacebuilding through Natural Resource Management – undertaken in partnership with the Environmental Law Institute (ELI), UNEP, and the University of Tokyo – progressed rapidly. In 2008, the Specialist Group widely circulated a call for abstracts. The enthusiastic response led the partners to expand the scope of the project. Currently, five edited volumes are planned: (1) Land, (2) High-Value Resources, (3) Livelihoods, (4) Restoration, Remediation, and Reconstruction, and (5) Governance and Institutions. In addition, an overarching synthesis volume is under development. Three review meetings were held for authors in New York (Sept.), Barcelona (Oct.), and Tokyo (Nov.). Additional meetings are planned for 2009 to continue the dialogue among authors and with the numerous UN and bilateral agencies working on post-conflict peacebuilding.

### ***(M) Trade and the Environment***

Last year, the Specialist Group on Trade and the Environment prepared two hefty legal experts papers with case studies of new legislation and experiences from around the world. These were reviewed formally and informally at regional workshops and various international events. One looked at fair trade experiences with local environmental goods, and the other examined how the trading system affects undervalued ecosystem services. This year, the papers are being circulating for comment with the intent of refining them for publication.

In addition, several members of the Specialist Group are collaborating on a new volume, for Kluwer Law International, on 'Sustainable Development in World Investment Law'. A legal experts seminar was held in Cambridge UK at the Lauterpacht Centre for International Law in July 08, and are still in final review of the papers.

### ***(N) General Environmental Law***

The ELC, together with CEL members, continued to contribute to the drafting process of a crucial environmental law in the Democratic Republic of Congo, namely the country's Environmental Framework Law. Two draft Environmental Framework Laws have been developed so far, one by the Ministry of Environment, one by a Member of Parliament. Funded by UNEP, the ELC teamed up with selected CEL members in November 2008 in order to start a comparative analysis of both drafts which shall lead to recommendations on how to consolidate the drafts and finalize the Environmental Framework Law.

#### **4. Ninth Conference of the Parties to CBD, Bonn, Germany**

The ninth meeting of the Conference of the Parties (CoP-9) of the CBD was held in Bonn from 19 to 30 May. The ELC staff attended various negotiation sessions as well as presenting a number of side events.

During the first week of CoP-9, the ELC held a side event on “*Protected areas: the critical role of law*”. The event aimed at presenting a project initiated by the ELC to develop guidelines for PA legislation. Participants showed great interest in the project, welcoming the initiative and drawing attention to a number of key questions which they expected the Guidelines to address. Three speakers explained the rationale and the methodology of the project. Patti Moore, Head of the Legal Programme for the Asia region, and Barbara Lausche, a CEL member and main contributor to the Guidelines explained the rationale and the methodology of the project. Melinda Janki, co-Chair of the Commission on Environmental Law/World Commission on Protected Areas Task Force presented an illustration of the need for and benefit of having created guidelines for creating a PA in Guyana.

In addition, the ELC was involved in organising a side event on ABS Implementation at a National level. This side event presented the results of a national workshop which was held in January 2008 in Peru using the TEMETEA module on ABS. The outcome of the workshop, namely a draft consultation text and proposed activities which were presented for adoption to stakeholders and ABS experts, provided an example of how to improve the implementation of ABS commitments at national level. The Peruvian exercise also attracted attention of other countries as a useful example how to develop ABS activities at national level.

IUCN also took the opportunity to launch its new ECOLEX interface during an IUCN reception.

An ELC legal officer also attended the Fourth Meeting of the Parties to the Biosafety Protocol in Bonn, which was held in conjunction with the CBD CoP-9. There, she followed negotiations on liability and redress.

#### **5. Capacity Building and Outreach**

##### **Outreach**

##### ***(A) Collaboration with UNITAR***

The ELC continued to prepare a new edition of the sixth course book of UNITAR’s Distance-Learning Course on International Environmental Law, on the topic of biological diversity. It provides a comprehensive overview of existing instruments and mechanisms for the protection and sustainable use of biodiversity.

The ELC is also continuing to prepare a new edition of the second course book in the same series, which is on International Environmental Governance.

### **(B) Arab International Conference on Environmental Legislation**

In July 2008, the Chair of the CEL and colleagues from the ELC participated in the Arab International Conference on Environmental Legislation. The conference was organized under the patronage of His Royal Highness Prince Sultan Bin Abdulaziz Al Saud, Crown Prince and Vice Premier and Minister of Defence and Aviation and Inspector General. It was the first conference ever to be held in the Kingdom of Saudi Arabia with a focus on environmental law. The ELP was cordially invited to host one of the conference sessions in which the ELP's mission, structure and work was presented. The session also provided an occasion for the ELC to introduce and discuss its current and future work on legal aspects of Payments for Ecosystem Services (PES).

### **(C) Lectures on International Environmental Law**

As in previous years, ELC legal officers in January taught a course on International Environmental Law at the University of Applied Sciences in Cologne, Germany. The course is part of an international masters program on Resource Management in the Tropics and Subtropics. The ELC legal officers provided a general introduction to International Environmental Law as well as to the legal aspects of issues such as Biodiversity, Climate Change, International Freshwater, Endangered Species, and explained the basic considerations of the implementation of International Environmental Law.

### **(D) Alexandre Kiss Environmental Law Papers Award**

With the goal of encouraging research work of young environmental lawyers, and promoting and disseminating research on the most relevant environmental law and policy issues the CEL created the *Alexandre Kiss Environmental Law Papers Award*. The award was named after Professor Alexandre Kiss, one of the pioneers in research on international environmental law. In 2007 the CEL launched a second round of Call for Papers. This year's topics were: Legal frameworks to address climate change—National and regional responses to a global challenge; and Renewable energy and energy efficiency—Exploring legal measures for their promotion. The author of the best paper has been awarded an internship at the ELC in Bonn, with coverage of their travel and accommodation costs, while the five best papers will be published.

### **(E) Interns**

Six interns and fellows from the Americas and Europe worked at the ELC in 2008. Coming from France, Germany, Canada, Costa Rica and the United States they contributed to activities and projects of the ELC while also researching subjects of their own interest.

In March, the ELC hosted the 2007 CEL *Alexandre Kiss Environmental Law Papers Award* winner, Louise Camenzuli from Australia. As winner for her paper '*The Development of International Environmental Law at the Multilateral Environmental Agreements' Conference of the Parties and its Validity*' ([http://cmsdata.iucn.org/downloads/cel10\\_camenzuli.pdf](http://cmsdata.iucn.org/downloads/cel10_camenzuli.pdf)), she had been awarded a two-week internship at the ELC. During her stay, she was able to work with ELC lawyers on the legal question around the issue of synergies between various MEAs.

## **Capacity Building**

### ***(A) Environmental Law Information Services***

2008 was an important year for ECOLEX - the Gateway to Environmental Law. A new interface was completed early in the year, and was launched by the three ECOLEX partners (FAO; IUCN and UNEP) during the CBD CoP-9 in Bonn in May, at a reception organized by IUCN. The new software has been recognized as a great improvement over the previous one, as it provides a number of new functionalities, such as a 'Google-like search', in addition to other possibilities, including an 'advanced search'. IUCN – ELC acts as the Management Unit for the information service, which includes four data sets (international treaties, national legislation, court decisions and law and policy literature), searchable separately, or in combination (see ECOLEX.org). In addition to its Management Unit function, IUCN ELC is the custodian to the data sets International Treaties and Law and Policy Literature. The Steering Committee of ECOLEX met at FAO in Rome mid-year, and decided on priorities for the near future. Among them were increased outreach and cooperation with other organizations active in the field. An agreement with the Centre for International Earth Science Information Network (CIESIN), a center within the Earth Institute of Columbia University, to use the IUCN treaty data provided to ECOLEX in the context of their ENTRY information service was initiated in July, and finalized in the Fall. Cooperation with CIESIN will bring ECOLEX added functionalities, such as mapping of treaty state participation over time, and has been welcome by all ECOLEX partners.

### ***(B) Capacity Building in South Caucasus***

The ELC has started collaboration with Adelphi Research in order to develop and implement a training programme on environmental policy and law in the South Caucasus 2008 – 2011. This training programme which is funded by InWEnt – Capacity Building International, Germany, aims at strengthening the Environment Ministries of Armenia, Azerbaijan and Georgia at the institutional and personal level. At the same time it supports further harmonization of domestic environmental legislation with relevant EU environmental accords.

In 2008, a series of training courses on environmental planning, including Environmental Impact Assessment and Strategic Impact Assessment, were held in each of the three countries. The ELC provided training materials for biodiversity-related Environmental Impact Assessments.

In 2009 and 2010, the ELC and the IUCN Programme Office for the Southern Caucasus (POSC) will develop, organize and implement three new training modules on “Integrated Biodiversity-related Legislation”, “Financial Instruments for Protected Areas”, and “Biosphere Reserves and Integrated Land Use Planning”.

### ***(C) Capacity Building for Conflict Resolutions on Shared Waters***

From 16 to 18 July, in La Antigua, Guatemala, the ELC held a capacity building event focused on negotiating agreements for conflict resolutions on shared waters (rivers, lakes, wetlands and coastal zones). The event was organized by IUCN Mesoamérica, and brought together several stakeholders from the governmental sector, NGOs and civil society together with IUCN practitioners. It focused specifically on building capacities by

analyzing negotiation processes and agreements for conflict solving. During the event several different methodologies were applied, including conferences and roundtables, but it was indistinguishably characterized by a learning-through-role-playing exercise in which the participants assumed different roles from the ones they carry out in their normal professional lives. The experiences lived through the event helped the participants to understand how to improve their negotiation skills, especially in water scarcity scenarios, and to explore the benefits of cooperation through water arrangements, for delivering integrated resource management on transboundary waters.

#### **(D) IUCN Academy of Environmental Law**

In September (26 – 28), the IUCN Academy of Environmental Law hosted a conference titled “*Climate Law in Developing Countries post-2012: North and South Perspectives*”. The conference was held at the Faculty of Law, University of Ottawa, Canada. The conference examined the legal and policy challenges that developing countries face in mitigating and adapting to climate change while meeting their social and economic needs. The conference began with a Pre-Conference Workshop on “*Teaching Climate Law in Developing Country Universities*,” which permitted the overall research of the conference to be tied into the IUCN Academy’s objectives of teaching and capacity building in relation to climate change.

The 6<sup>th</sup> Annual Colloquium of the IUCN Academy of Environmental Law: *Poverty alleviation and environmental protection* was held in Mexico City, Mexico from 10 to 15 November. This academic meeting examined the legal, institutional, and social challenges of poverty-environment linkages. Speakers discussed diverse approaches adopted by both international community and national governments in the field of legislation, public policies and governmental institutions to deal with such challenges. Speakers also analyzed the importance of public participation in taking decisions regarding environmental protection and poverty alleviation as well as the role of the Judiciary in making real access to environmental justice a possibility, and to promote sustainable development.

## **6. Publications in 2008**

### ***Explanatory Guide to the International Treaty on Plant Genetic Resources for Food and Agriculture (IUCN EPLP No. 57, Spanish and French version)***

The Spanish and French versions of the publication ***Explanatory Guide to the International Treaty on Plant Genetic Resources for Food and Agriculture*** were published in 2008. The entry into force of the International Treaty on Plant Genetic Resources for Food and Agriculture marks the commitment of the world community to a freestanding convention directed at addressing both global needs for food security and internationally agreed objectives regarding the concepts of ‘access and benefit-sharing’ found in the CBD. The sixth in a series of Guides to the implementation of particular international instruments and concepts, it seeks to promote greater understanding of the Treaty’s text, including some of the scientific, technical and legal issues upon which it is founded, and possible implications.

### ***Prácticas ancestrales y derecho de aguas: de la tensión a la coexistencia (IUCN EPLP No. 68)***

The publication ***Prácticas ancestrales y derecho de aguas: de la tensión a la coexistencia***, is the result of a research Project conducted by the ELC in collaboration with the CEL. This Project was aimed at documenting the relationship between traditional water use practices of indigenous peoples and communities, and existing formal or written water management legislation in four Latin American countries: Colombia, Ecuador, Guatemala and Paraguay. At present there are still indigenous and local communities that manage their natural resources, including water, in accordance with rules and traditional practices. Most formal State systems acknowledge the rights and practices of these customary systems in their constitutions, rules or case law. However, conflicts often arise because of differences that exist in interpretation and enforcement of these rights and practices. This work is intended to promote a process of dialogue and coexistence mechanisms of conciliation, and to create a more harmonious existence between the two systems.

***Aspects contemporains du droit de l'environnement en Afrique de l'ouest et centrale (IUCN EPLP No. 69)***

The publication ***Aspects contemporains du droit de l'environnement en Afrique de l'ouest et centrale***, was coordinated by Laurent Granier. It consists of nine articles written by Environmental lawyers from the region, regrouped around three themes: Chapter I deals with "convergences and divergences of national legal frameworks," and provides illustrations from a number of countries and subjects; Chapter II considers a selection of legal frameworks for three types of ecosystems (forests, a river basin, and marine and coastal areas); Chapter III considers the implementation of international law and regional integration, as well as the revised African Convention on the conservation of nature and natural resources as a new framework for integrated development of environmental law in Africa. An introduction and a conclusion place these contributions in their international and regional context. The publication is the result of a joint UNEP-IUCN project.

***Governance for Sustainability (IUCN EPLP No. 70)***

The publication ***Governance for Sustainability – Issues, Challenges, Successes***, by Klaus Bosselmann, Ron Engel and Prue Taylor, was the result of a joint effort between the CEL and the ELC. It makes an important contribution to the on-going discussions on environmental governance, in particular by providing a thoughtful consideration of concepts that are critical to our understanding of how societies respond to environmental challenges. A range of case studies are presented, which share experiences of people and communities as they address environmental issues and demonstrate a number of different environmental models. It invites all of us engaged in environmental issues to begin a renewed dialogue on the issue of governance for sustainability in order to seek real solutions on the ground.

***Series on Access and Benefit-Sharing (IUCN EPLP No. 67)***

In its effort to reach a global audience, in 2008 the ELC provided translations for the first two volumes of its ***ABS Series*** – a five-volume sub-series of the ELP's Environmental Policy and Law Papers (EPLP). The Series provides intensively researched expert analysis on key issues of access to genetic resources and benefit-sharing under the CBD.

Publication no. 1 within the *ABS Series* is entitled ***Enfrentando los problemas de acceso: protegiendo las fuentes, mientras que se brinda certeza a los usuarios***

(Spanish version); ***Répondre aux problèmes de l'accès aux ressources génétiques: protection des sources et certitude pour les utilisateurs*** (French version), by Jorge Cabrera Medaglia and Christian López Silva (IUCN EPLP 67/1): It provides a systematic analysis of the requirements of access law, both the CBD requirements and the basic requirements of enforceable legislation, which are often not considered in analysis of ABS legislative issues. Often key legal issues that have a significant impact on enforceability of ABS agreements are not addressed in national legislation, therefore, this book addresses these issues with the aim to recognize and understand the nature of the legal impediments that must be addressed for the drafting of functional ABS legislation. Although the book is premised on the issues of access, it inevitably makes reference to corresponding issues of benefit sharing that are relevant for articulating the legal principles that inform a functional ABS system. In addition, this publication provides information regarding the kinds of issues and solutions that can function legally to enable ABS implementation. Its conclusions look at particular legal concepts that, if accepted, could form the basis for functional ABS systems that respond to the identified concerns.

The second book of the *ABS Series*, ***Más allá del acceso: explorando la implementación del compromiso de distribución justa y equitativa en el CBD***, by Morten Walløe Tvedt and Tomme Roseanne Young (IUCN EPLP 67/2), addresses the issue of the implementation of the CBD's ABS regulations. Realizing that in the twelve years since the adoption of the CBD, its provisions for ABS remain the least implemented of any of the commitments in the convention, the book analyses the laws of particular user countries which have either declared that their ABS obligations are satisfied by existing national law, or begun legislative development, the requirements, weaknesses and gaps in achieving benefit-sharing objectives, as well as the ways in which new or existing legal tools can be applied to these requirements.

### ***SHARE: managing water across boundaries***

WANI's latest toolkit publication, ***SHARE: managing water across boundaries***, provides an overview of the world's shared water resources and insights for managing these resources. Using case studies from around the world, it describes the benefits to be gained from cooperation and the challenges of constructing legal frameworks, institutions, management processes and financing, and partnership strategies to govern transboundary waters equitably and sustainably. *SHARE* presents practical tools in plain language to help practitioners and stakeholders conceptualize and implement cooperative, participatory and sustainable water management. It emphasizes the value of information, communication, institutions and adaptability. *SHARE* also underscores the broad range of benefits that can be derived through cooperative management of international rivers and the need for equity in benefit sharing, particularly with regard to project-affected people.

### ***Online Series of Environmental Policy and Law Papers on Marine Biodiversity in Areas Beyond National Jurisdiction (ABNJ)***

This year, IUCN launched four online papers to inform international discussions on marine biodiversity in Areas Beyond National Jurisdiction (ABNJ). The papers were prepared with support from the German Federal Ministry for the Environment, Nature Conservation and Nuclear Safety and the Dutch Ministry of Agriculture, Nature and Food Quality. They were intended to facilitate discussions on “whether there is a regulatory or

governance gap, and if so, how it should be addressed”. All four papers were intended complement and be read in conjunction with each other.

The first paper is intended to identify and summarize regulatory and governance gaps in the international regime for the conservation and sustainable use of marine biodiversity in ABNJ. The second paper identifies options for addressing regulatory and governance gaps in the international regime for the conservation and sustainable use of marine biodiversity in ABNJ. The third paper contains a case study on the conservation and sustainable use of marine biodiversity in the part of the Mid-Atlantic Ridge (MAR) that is situated in ABNJ. The fourth paper then explores possible elements of a new instrument to protect marine resources in ABNJ – a Biodiversity Implementation Agreement under the United Nations Convention on the Law of the Sea (UNCLOS). Split into three parts, this final paper looks at current governance arrangements and challenges; provides an in-depth examination of what an Implementation Agreement might look like and its relationship with other bodies and processes; and reviews potential institutional arrangements.

### ***Biosphere Ethics Project Paper Series***

The first paper in the series, ***The Biosphere Ethics Project: Implementing the Bangkok World Conservation Congress resolution to draft and promote a code of ethics for biodiversity conservation***, is a report that provides a summary of the main discussion points and outcomes of the planning meeting held to implement Bangkok World Conservation Congress Resolution 3.020 to draft a code of ethics for biodiversity conservation. In addition it includes a revised version of the Project Concept Paper, which is intended for internal IUCN use and contains details of the proposed drafting process, associated activities, timeline, key events and indicative resourcing needs. The meeting was sponsored by the Center for Humans and Nature and the CEL.