IUCN Environmental Law Programme

The Year in Review 2013

(1) Introduction

The International Union for Conservation of Nature (IUCN) is an environmental network made up of over 1000 members including States, government agencies and national and international NGOs as well as some 10,000 individual scientists and other experts structured in six Commissions whose headquarters are in Gland, Switzerland. The priorities and work of IUCN are set by Member organizations every four years and subsequently coordinated by a professional secretariat with 1,000 staff in 45 countries.

The mission of the IUCN Environmental Law Programme (ELP) is to advance environmental law through the development of legal concepts and instruments, and to facilitate the use of environmental law as a tool to influence, encourage and assist societies throughout the world to conserve the integrity and diversity of nature and to ensure that any use of natural resources is equitable and ecologically sustainable. The 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. ELP activities are carried out by the World Commission on Environmental Law (WCEL) and the Environmental Law Centre (ELC), in collaboration, as appropriate, with the IUCN Academy of Environmental Law. As of the end of 2013, the WCEL has over 950 members, including judges, prosecutors, government attorneys, private attorneys, law professors, and others engaged in the Commission’s work and mission.

The ELC is a programme unit of the IUCN secretariat which coordinates the promotion of environmental law as a tool for sustainable development and resource governance. It acts as the secretariat for the WCEL, and works in collaboration with the whole of IUCN, together with many other partners from across the globe. The ELC also houses an extensive library of environmental law holdings and is the management unit for ECOLEX, “The Gateway to Environmental Law” (www.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).

2013 was the first year of the implementation of the IUCN Programme Plan (2013-16) focusing on three global programme areas: valuing and conserving nature, effective and equitable governance of nature’s use and deploying nature-based solutions to climate, food and development. Result-based programme delivery has been continued and initiated on a number of thematic and cross-cutting issues in environmental law. The following section illustrates these efforts through promotion and demonstration of the role of law in natural resource governance on land and at sea.

(II) Thematic issues

(A) Programme Area: Valuing and Conserving Nature

(i) Access and Benefit Sharing

Much of the effort on awareness raising and capacity building concerning access and benefit sharing (ABS) has been made by the ELC. In 2013 the ELC, in collaboration with the IUCN Global Policy
Unit, created an ABS role play module for capacity-building activities undertaken in the Global Environmental Facility ABS Latin America and the Caribbean (GEF ABS LAC) Project “Strengthening Access Regimes to Genetic Resources and Benefit Sharing in Latin America and the Caribbean” based on the 2012 IUCN Explanatory Guide to the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of the Benefits Arising from their Utilization to the Convention on Biological Diversity. This is a major knowledge product resulting from one and a half years of extensive work by ABS experts from different regions and international institutions. The project aims to reinforce the capacity of developing countries, the implementation and application of CBD provisions related to the access to genetic resources and benefit-sharing associated with traditional knowledge, and increase the understanding and negotiation capacities of countries regarding ABS contracts and agreements. The ELC presented this role play module during the “Workshop on Negotiation of ABS contracts and Second Regional Meeting of the GEF ABS LAC Project” in March 2013 in Havana, Cuba. Representatives from eight countries (Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, Guyana, Panama and Peru) and from UNEP, the CBD Secretariat and other organizations attended the week-long training. Also during this event, the ELC launched the Spanish version of the Explanatory Guide to the Nagoya Protocol on Access and Benefit-sharing.

Based on this guide, the ELC also developed, as an awareness raising tool, a set of six short papers on critical ABS issues regulated by the Nagoya Protocol, i.e. access, traditional knowledge, competent national authorities, monitoring compliance, compliance with mutually agreed terms, and model contractual clauses.

In addition to capacity building on ABS, another dimension of ELC’s work on ABS is its linkages with conservation of marine genetic resources in areas beyond national jurisdiction (ABNJ). Further information can be found under our section “Marine Biodiversity”.

(ii) Forest

Since 2013, the ELC has been supporting the IUCN Regional Office for Western and Central Africa in the development of the policy context of an ecosystem profile related to the Guinean Forests Biodiversity Hotspot. Funded by the Critical Ecosystem Partnership Fund (CEPF), the Ecosystem Profile for the Guinean Forests of West Africa hotspot encompasses all of the lowland forests of political West Africa, stretching from Guinea and Sierra Leone eastward to the Sanaga River in Cameroon, including Liberia, Côte d’Ivoire, Ghana, Togo, Benin, Nigeria, Cameroon, Equatorial Guinea, Guinea, Sierra Leone and the four islands in the Gulf of Guinea: Bioko, Annobon, São Tomé and Príncipe. The ELC conducted a comprehensive review of legal, policy and institutional frameworks of all relevant countries related to nature resources management and biodiversity conservation. The findings will be summarized in the policy chapter to be submitted in 2014.

(iii) Inland Water

The implementation of BRIDGE (Building River Dialogue and Governance) remained in focus for the ELC in 2013.

In March, the ELC and the IUCN Global Water Programme prepared a global learning workshop in Lima, Peru. The workshop was attended by the two global programs as well as project staff, partners and commission members from all the three BRIDGE target regions (Andes, Mesoamerica and Asia). In addition, two different workshops on equitable benefit and cost sharing were organized in Tumbes and in Puno, Peru. The workshops were attended by national and local authorities as well as
representatives from civil society.

The ELC, the IUCN Global Water Programme and consultants worked on a series of learning materials for Benefit Sharing on Transboundary Waters. This learning package is complementary to the existing one on Governance of Transboundary Waters and is available on the Water Law and Governance Support Platform (http://www.waterlawandgovernance.org/).

Within the framework of the BRIDGE support facilities, the ELC also coordinated several capacity-building courses on International Water Law in Africa and on Hydro-diplomacy and Benefit Sharing in Central and South America.

In 2013, the ELC organized a number of events relevant to inland water governance at global, regional and national levels.

In August, at the World Water Week, in Stockholm, Sweden, the ELC held two seminars “Strengthening the Basis for Water Cooperation across Borders” and “Transboundary Governance for Resilience and Development” and a BRIDGE project side event.

In September, the ELC attended the First Workshop on River Basin Commissions and Other Joint Bodies for “Transboundary Water Cooperation: Legal and Institutional Aspects” organized by the Convention on the Protection and Use of Transboundary Watercourses and International Lakes, United Nations Economic Commission for Europe in Geneva, Switzerland. The ELC presented findings from the BRIDGE project, particularly on the value for cooperation in transboundary basins.

In October, the ELC attended the World Water Summit in Budapest, Hungary. This event was jointly organized by the Government of Hungary, the United Nations System and the World Water Council. The Summit focused on the role of water for food security and poverty reduction.

The ELC contributed a chapter for the upcoming “Manual on International Water Law” focused on Latin America to be published in 2014. Also in October, The ELC attended a meeting organized by the Global Water Partnership in Bogotá to discuss with all the authors the details of this manual.

The ELC also organized a consultation workshop “Ecosystems for Life Project. Shared Vision on water, food and livelihood security in the Ganga, Brahmaputra and Meghna region” organized by the IUCN Asian Regional Office in New Delhi, India. The aim of the workshop was to start the process for developing an understanding on a shared vision, identify stakeholders, principles, underlying factors and the means to carry the process forward.

Also in 2013, the ELC presented a legal and institutional analysis of the Trifinio Aquifer to the Nile Basin Discourse. Laws and institutional architecture of the three different countries governing the aquifer were studied in order to identify gaps and make recommendations for improvement.

(iv) Marine Biodiversity

Throughout 2013, the ELC has applied much of its knowledge on ABS in work concerning conservation and sustainable use of marine genetic resources within and beyond national jurisdiction.

The ELC’s work on marine genetic resources in the study Access and Benefit Sharing in Relation to Marine Genetic Resources from Areas Beyond National Jurisdiction (ABNJ) aims to contribute to broader international efforts to develop legal and policy frameworks for governing the conservation
and sustainable use of biodiversity in the high seas and the deep seabed. In 2013, as part of a larger research project of the German Federal Agency for Nature Conservation (BfN), the study “Access and Benefit Sharing in Relation to Marine Genetic Resources from Areas Beyond National Jurisdiction (ABNJ) – A Possible Way Forward” was initiated. Its main objective is to facilitate the international process by exploring practical options for the equitable sharing of benefits derived from the utilization of marine genetic resource in ABNJ. Moving forward on this particular issue could lead to substantive progress on high seas environmental governance in general.

The ELC also took part in the sixth session of the UN Working Group on Marine Biodiversity beyond national jurisdiction and spoke on “Exploring different benefits and benefit-sharing approaches” at inter-sessional workshops organized as part of the work undertaken by the UN Ad Hoc Open-ended Informal Working Group in New York, USA. The ELC and the IUCN Global Marine and Polar Programme have been providing significant legal and technical support to the UN Working Group and Member States for nearly a decade, and will continue to do so as part of its current project on the development of an implementing agreement for the conservation and sustainable use of marine biodiversity in ABNJ.

At the European Union level, the ELC continued its work as a partner in two European Commissions funded projects-Marine Microbial Biodiversity, Bioinformatics and Biotechnology (Micro B3) and PharmaSea.

The ELC, in collaboration with partners from the University of Bremen, Université Catholique de Louvain, and the Mediterranean Science Commission (CIESM), developed a Model Agreement on Access to Marine Microorganisms and Benefit-sharing. This agreement sets out possible terms for access to genetic resources found in/on a coastal State’s territorial sea, exclusive economic zone or continental shelf, for the utilization and transfer to third parties of the accessed genetic resources, the management and transfer to third parties of knowledge and data resulting from such utilization and the sharing of benefits drawn from the same.

The ELC attended the first meeting of the Advisory Panel of Policy and Legal Experts (APPLE) set up under the EU PharmaSea project in Vigo, Spain in September, 2013. The project's global objective is the identification of new marine microbial strains from extreme environments to evaluate their potential as new drug leads, antibiotics or ingredients for nutrition or cosmetic applications. The ELC in collaboration with project partners developed a draft strategy for the PharmaSea consortium members to comply with ABS obligations, in particular clarifying different constellations of third party transfer. The ELC also attended the PharmaSea Project General Assembly meeting and presented its ABS work under the CBD and the UNCLOS and explained ABS compliance issues and its relevance for research and development work. The ELC developed a chapter on “Common pools for marine genetic resources: a possible instrument for a future multilateral agreement addressing marine biodiversity in areas beyond national jurisdiction” published by Earthscan/Routledge in “Common Pools of Genetic Resources – Equity and innovation in international biodiversity law”. Moreover, the ELC co-authored a paper on “Fair and Equitable Sharing of Benefits from the Utilization of Marine Genetic Resources in Areas beyond National Jurisdiction: Bridging the Gaps between Science and Policy” to be published in a special edition of Marine Policy in early 2014.

(v) Protected Areas
The Legal Preparedness for Achieving the Aichi Biodiversity Targets Program is a global initiative launched in 2012 by the International Development Law Organization (IDLO) and the Secretariat of the Convention of Biological Diversity (SCBD). It aims to support a global partnership, engaging legal researchers, experts and organizations around the world in order to build up new knowledge and practical tools to assist countries to design legal approaches to achieve national goals related to the Aichi Targets, and to incorporate them into National Biodiversity Strategies and Action Plans (NBSAPs). Under the Program, the ELC, in collaboration with Natural Justice, developed a scoping paper on Aichi Biodiversity Target 11.

**Aichi Biodiversity Target 11:** By 2020, at least 17 per cent of terrestrial and inland water areas and 10 per cent of coastal and marine areas, especially areas of particular importance for biodiversity and ecosystem services, are conserved through effectively and equitably managed, ecologically representative and well-connected systems of protected areas and other effective area-based conservation measures, and integrated into the wider landscape and seascape.

The main purpose of this scoping paper is to set out the state-of-the-art of legal knowledge on Target 11 and identify priority areas for future legal research to fill key knowledge gaps. This survey of legal knowledge is intended to provide a foundation for future research efforts that will examine the effectiveness of specific national/subnational legal approaches and develop practical legal guidance that can assist policy-makers and other stakeholders to take concrete action to utilize legal approaches to achieve Target 11. The ELC presented this paper in a side event at CBD SBSTTA 17 (Subsidiary Body on Scientific, Technical and Technological Advice of the Convention on Biological Diversity) in Montreal, Canada in October 2013. The development of case studies on innovative legal instruments in 14 countries was also planned in collaboration with IDLO and Natural Justice.

In collaboration with the IUCN World Commission on Environmental Law (WCEL), World Commission on Protected Areas (WCPA), the IUCN Academy of Environmental Law, the IUCN Global programme of Protected Areas and three IUCN regional offices in Africa and Mesoamerica, the ELC initiated the implementation of a three-year project ‘Capacity Building for Protected Areas Law and Governance’. This project aims to produce a set of educational tools (concentrating on a variety of easily accessible e-learning tools for different uses and audiences) to provide a ‘blended learning’ package (online learning tools and face to face instruction) for teaching law relevant to protected areas at university and practitioner education levels. The overall goal is to support trainers and teachers to prepare their own courses, providing them with guidance on content to teach in their region with a view to reinforcing endogenous expertise in protected areas law. Much of the work has been advanced in three out of the six inter-connected outputs: development of an e-teaching product for the Convention of Biological Diversity (CBD) website, preparation of a generic curriculum for the teaching course and identification and development of teaching materials.

The ELC assisted the IUCN Centre for Mediterranean Cooperation with the production of a series of Mediterranean Country Legal Profiles concerning marine conservation publications. The ELC commented and revised all reports and information prepared and collected by national legal experts, covering Croatia, Montenegro, Bosnia & Herzegovina, Albania, Morocco, Tunisia, Algeria, Egypt and Turkey.

**(vi) Species**

The ELC also collaborated in a joint TRAFFIC-IUCN project looking at the European Commission Wildlife Trade regulations. As part of the assessment of the effectiveness of the EC Wildlife Trade Regulations, the ELC compiled legislation related to the Convention on International Trade in
Endangered Species (CITES) wildlife trade based on the EU Member States Biennial reports and undertook an in-depth analysis of current practice in Member States and legal interpretation of the provisions.

(B) Programme Area: Effective and Equitable Governance of Nature’s Use

(i) Natural Resources Governance Framework

One of the flagship knowledge products that IUCN plans to develop in the 2013-16 programme period is the Natural Resources Governance Framework (NRGF). The main aim of the Framework is to provide an independent method to determine the strengths and weaknesses of natural resource decision-making and implementation. This knowledge product will help decision-makers, whether citizens, economic institutions or political authorities, to make better and fairer decisions that will underpin the sustainable management of natural resources and improve existing governance arrangements.

In January 2013, the ELC in collaboration with the World Commission on Environmental Law and the IUCN Commission on Environmental, Economic and Social Policy started coordinating the study on the legal component in the IUCN Natural Resource Governance Framework. In August 2013, the ELC hosted a workshop on the Legal Component of the IUCN NRGF. Under the lead of the WCEL Deputy Chair and another WCEL member, a paper exploring a possible approach to assess the effectiveness of environmental law was produced, providing the basis for further advancing the work in 2014.

(ii) Rights-Based Approaches to Conservation (RBA)

In 2013, the ELC in collaboration with the IUCN Country Office in Laos PDR finalized the publication “Review of Statutory and Customary Law in the Xe Champhone Ramsar Site, Lao PDR - Implications for a rights-based approach to conservation”. This publication is one of the outputs of the ELC’s multi-regional project on RBA.

A background paper outlining RBA to conservation in the context of Rio+20 was also drafted by the ELC in 2013. The purpose of the paper was to bring more clarity to the concept of RBA, a fact also mentioned in the IUCN’s position paper on the institutional framework for sustainable development.

(iii) Environmental Liability

As a partner of a European Commission study entitled “Environmental Liability Directive on biodiversity damage”, the ELC worked with Milieu Ltd/Law and Policy Consulting to conduct a study providing an overview of the practical implementation of the ELD and an analysis of key elements of the Directive and a Register of information sources and methodological approaches to determine baseline condition for biodiversity damage. The ELC and the IUCN Global Species Programme created a register covering the information sources for baseline biodiversity information at the European level and from 28 EU member states. In addition, the ELC drafted a paper on “Favourable Conservation Status under the EU Habitats and Environmental Liability Directives” to be used as a basis for legal analysis.

(C) Programme Area: Deploying nature-based solutions to climate, food and development
(i) Climate Change

The ELC has provided legal support to REDD+ related work led by the IUCN Global Forest and Climate Change Programme (GFCCP) to generate, consolidate and promote a knowledge base around pro-poor legal frameworks for REDD+. In May 2013, the project “REDD+ BENEFITS: Facilitating countries and communities in the design of pro-poor REDD+ benefit sharing schemes” in three countries: Ghana, Mexico and Peru started. Under this project, the ELC will produce a comparative report of legal and institutional frameworks of the selected countries and a policy document on legal and institutional contexts for REDD+ pro-poor oriented benefit sharing. The ELC attended two project meetings in Peru and Ghana and collaborated with the regional offices in developing the terms of references for a national legal assessment and shared the initial findings on the corresponding legal frameworks.

Since 2010, the ELC and the IUCN Regional Office for Mesoamerica (ORMA) have implemented the project “Climate Change Governance Capacity: Building regionally and nationally tailored ecosystem-based adaptation in Mesoamerica”. This project was completed in 2013 delivering results related to a decision-support knowledge base; discourse building and policy development; and improved policy and institutional environment in pilot intervention sites. MESOLEX, a web-based database, provides the most comprehensive collection on environmental law and policy in Central America. It was launched as one of the final project outputs in 2013. MESOLEX derives from ECOLEX, an information system and service for environmental law information worldwide, tailored for the needs in the Mesoamerican region, serving individuals and organizations as a comprehensive information tool on environmental law and policy, in particular related to water and climate change, covering national laws and regional instruments, for example national and regional strategies and action plans.

In 2013, the ELC continued with the development of the publication “Governance of Shared Waters: Adaptation to Climate Change” with consultants from the IUCN Global Water Programme, the World Commission on Environmental Law and the Commission on Ecosystem Management. This publication focuses on legal issues of the new transboundary River Basin Organization for the sharing of freshwater resources with a view to creating awareness on climate change adaptation.

(ii) Greening the World Economy

The ELC finalized the drafting of “Guidelines for Policy and Legislation on integration of biodiversity aspects in extractive industry activities”. The guidelines will be published in 2014.

(III) World Commission on Environmental Law (WCEL)

The year 2013 marked the first full year for the World Commission on Environmental Law (WCEL) under its Mandate from the 2012 World Conservation Congress in Jeju and under the leadership of Justice Antonio Herman Benjamin as Chair. The WCEL Mandate describes a twofold mission: promoting legal, ethical, and institutional concepts and instruments that enhance environmental sustainability; and building the capacity of judiciaries, government agencies, parliamentarians, prosecutors, and other stakeholders, policymakers, and officials as they develop and implement environmental law through effective compliance and enforcement.

The Commission has developed a Strategic Plan to lay out plans and priorities for carrying out this mission over the next several years. In 2013, this work focused on several areas: developing new
programs for enhancing environmental law, capacity building, and research on emerging principles and issues affecting environmental law; expanding Commission membership, especially in previously underrepresented regions of the world; strengthening partnerships, both within IUCN and with other organizations, including multilateral organizations and treaty bodies; and organizing and co-sponsoring major colloquia and events to advance and promote dialogue on environmental law.

(a) Programs

The WCEL has begun developing programs and proposals for work in engaging with judiciaries on environmental issues, capacity building on a variety of environmental law issues, enhancing legal frameworks for environmental conservation, and conducting research on the influence and application of well-established and emerging principles of environmental law.

Judiciary and the Environment: The Commission has initiated a process of consultation with members of judiciaries and other stakeholders in preparing a proposal for the establishment of an IUCN Judicial Institute on the Environment. Such an international institute would further environmental law and enhance the rule of law in environmental matters by providing information, continuing education, and other support to both specialized environmental courts and courts of general jurisdiction that adjudicate environmental matters on a regular basis. WCEL will continue to work with stakeholders throughout 2014 to set priorities and themes that would be included in proposing this institute.

Legal Frameworks for Forest Conservation: WCEL has worked with the IUCN Environmental Law Centre (ELC) and Secretariat in developing proposals for strengthening legal frameworks for forest conservation in the Amazon and Congo Basins—home to the world’s two largest rainforests. Proposed activities would include a comparative study and analysis of national and subnational legal frameworks in each region to identify gaps or weaknesses in addressing forest conservation at a region-wide, biome level, as well as programs for working with judges and other stakeholders at a regional level.

Environmental Law Principles: WCEL has proposed engaging its membership and other experts in undertaking analysis of both well-established and newly emerging environmental principles. Some of these emerging principles, which have been articulated by judges and by respected jurists, include: the principle of sustainability, the principle of non-regression, the principle of in dubio pro natura, and the principle of resilience, as well as additional principles rooted in environmental rights in national constitutions and international instruments. This analysis would also address the need to identify and discontinue reliance on obsolete principles whose application is detrimental to or in opposition to human rights and environmental conservation and sustainability.

Protected Areas Law: WCEL has worked closely with the ELC and representatives of the IUCN Academy of Environmental Law Secretariat on projects related to capacity building in protected areas law, based on IUCN Environmental Law Programme publications on guidelines for protected areas legislation and on connectivity. In addition, the Commission is preparing content for and has participated in planning meetings with other components of IUCN toward the World Parks Congress, to be held in Sydney, Australia in November 2014.

Sustainable Development Goals: The Commission is actively engaged in building dialogue on the role and importance of law in establishing and implementing sustainable development goals (SDGs). The concept of SDGs has been promoted and integrated within the UN System as part of its post-2015 development agenda. WCEL Chair Antonio Benjamin was named to the Leadership Council of
the UN Sustainable Development Solutions Network, which is providing technical input and proposals on the SDGs to the UN Secretary-General’s panel on post-2015 development.

(b) Outreach in Africa and Asia

WCEL has undertaken a major effort to bring the Commission’s work to regions of the world that have not historically received sufficient attention in developing environmental law.

Africa: Justice Benjamin made three visits as Chair of WCEL to Africa in 2013 to raise awareness of the Commission’s activities and mission and establish new initiatives for promoting environmental law in the continent. In visits in March, July, and October, the Chair travelled to Burkina Faso, Senegal, Côte d’Ivoire and Nigeria to meet with environment ministers, Supreme Court justices and other judges, parliamentarians, academics, and others. Initiatives launched at that time included efforts to build publications on environmental law in Central and West Africa and develop country-specific courses on environmental law for judges.

At the Conference of the Parties to the UN Convention to Combat Desertification, which was held in September 2013 in Windhoek, Namibia, WCEL Deputy Chair Ben Boer and Ian Hannam, Chair of WCEL's Specialist Group on the Sustainable Use of Soil and Desertification, organized a side event on legal issues in soil conservation and land degradation. This meeting created an additional opportunity for the Commission to reach out to those working on environmental issues, and soil in particular, in sub-Saharan Africa.

In October, WCEL and partner organizations sponsored the 1st Colloquium on Environmental Law in Africa, in Abidjan, Côte d’Ivoire. Justice Benjamin and other WCEL members participated in the historic event, which brought together leaders from several countries, and also serve as the launch for RADE – the African Environmental Law Review, which will be an important tool for developing and sharing knowledge about environmental law in the region.

Asia: In July, the Chair made an official visit to Myanmar, meeting with Aung San Suu Kyi, Nobel laureate and member of Myanmar’s Parliament, and other executive, legislative, and judicial officials in the country to discuss opportunities for developing law that addresses environmental concerns in the region and the need for legal and scientific capacity building. The Commission has also extended its outreach efforts to China. Justice Benjamin and Deputy Chair Ben Boer led WCEL participation in the 2013 Eco-Forum Global, which is focused on developing “eco-civilization” in China. WCEL will continue to engage with environmental lawyers and policymakers and build its membership profile throughout the region.

(c) Promoting Dialogue

WCEL helped organize and participated in colloquia and events to promote dialogue on environmental law in several different countries in 2013. As mentioned above, the Commission supported the historic Colloquium on Environmental Law in Africa in Abidjan and the event on soil conservation and land degradation at the UNCCD COP.

In Brazil, WCEL was involved in four colloquia—two each in April and December, held in conjunction with a meeting of the WCEL Steering Committee and a joint meeting of the Steering Committee and WCEL Specialist Groups. Two events held at the Brazilian Federal Senate focused on Rio+20 and biodiversity and on the legal and scientific agenda for addressing climate change. In addition, the Commission participated actively in an International Colloquium on Water and Forests
in April in Foz do Iguaçu, Brazil, and in the International Congress of Environmental Law held in December in Brasília, hosted by the National High Court of Brazil (Superior Tribunal de Justiça) and the Federal Justice Council. These events brought together high-level international and national experts, judges, policymakers, and officials to exchange ideas and discuss critical developments in diverse areas of environmental law.

(d) Membership

As of the end of 2013, the WCEL has over 950 members, including judges, prosecutors, government attorneys, private attorneys, law professors, and others engaged in the Commission’s work and mission. Special outreach in Africa, especially at the Colloquium in Abidjan, has led to significant expansion of the Commission’s presence in the continent, where it now has 110 members. The Commission has already received dozens of new applications from China in early 2014 and will continue to seek qualified members in under-represented areas of the world.

The WCEL now has an online process for receiving up-to-date information about the Commission members’ interests, availability, and willingness to participate in different programs and activities. In addition, the Commission has begun transitioning to use the IUCN Portal to help manage this information and communicate with members.

WCEL is continuing to develop these and other initiatives in 2014, as outlined in its Strategic Plan, to fulfill its goal and vision of affirming the rule of law and ensuring that environmental law contributes to enabling a just world that values and conserves Nature. In particular, the Commission has been working through its ten Specialist Groups—made up of WCEL members that focus on specific topic areas within the field of environmental law—to engage with individual members and encourage them to contribute meaningfully to the Commission. Reports from several of the Specialist Groups on their activities in 2013 are included below.

(e) Specialist Group Reports

(i) Specialist Group on Armed Conflict and the Environment

In 2013, the work of the Specialist Group on Armed Conflict and the Environment focused on two themes: (1) legal protection of the environment in times of armed conflict (led by SG Co-Chair Michael Bothe), and (2) the role of natural resources in post-conflict peacebuilding (led by SG Co-Chair Carl Bruch).

The work of the SG has gained an elevated international profile with the appointment of by the International Law Commission of a Special Rapporteur on Protection of the Environment in Relation to Armed Conflict. Her analysis will focus on international law relating to protection of the environment before, during and after conflict. The SG has shared analyses and resources related to protection of the during armed conflict and the role of the environment and natural resources after conflict, and will consider actions before conflict to protect the environment (such as designating protected areas as no-go zones).

Work on the role of natural resources in post-conflict peacebuilding focused on finalizing publication of the ongoing series of books as well as development of policy briefs and an online knowledge platform for environmental peacebuilding for disseminating key findings and materials. Land and Post-Conflict Peacebuilding was published in 2013 and three other books are anticipated for 2014.
(ii) Specialist Group on Compliance and Enforcement

The Specialist Group on Compliance and Enforcement has focused on three main activities in 2013. First, the SG is working to build a global community of environmental prosecutors to facilitate the exchange of tools, capacity building, and information that assists environmental prosecutors in their work. Elements of building this network include: database design, communication assessment, consultations, and networking activities with regional prosecutor networks, including collaboration with networks in Europe and Latin America. Next, the SG has been working with the IUCN Academy of Environmental Law to initiate a compliance and enforcement scholarly article database.

Third, the Specialist Group worked to raise awareness of the importance of compliance and enforcement with environmental laws and of the Group’s activities through regular presentations. The WCEL Specialist Group Chair, Ken Markowitz made the following presentations to advance the goals established for 2013:

- Jordanian Delegation, on water law enforcement, in partnership with the Environmental Law Institute (January)
- UNEP World Congress, follow up to Rio+20, in Nairobi, Kenya (February)
- New York City Bar Association, compliance and enforcement theory in action (April)
- Chinese Delegation, on principles of environmental compliance and enforcement (October)
- American University WCL Law Class on Environmental Compliance and Enforcement to students from Africa, Latin America, Europe, Asia and the US (June)
- INECE/VHRM Conference in Brussels on Environmental Enforcement Networks (November)
- World Bank Law Justice and Development Roundtable on Environmental Crime, with emphasis on challenges for effective capacity building (November)

(iii) Specialist Group on Energy and Climate Change

Renewable Energy Book. The Specialist Group’s case study analyses of renewable energy initiatives in developing countries was published by Edward Elgar Publishers in the UK under the title, *Renewable Energy Law and Development, Case Studies*. Analyses of initiatives in China, the Philippines, India, Brazil, Indonesia and Pakistan were included.

Presentations

- New Zealand Colloquium: SG members Professors Wang Xi, Nick Robinson and Chair Richard Ottinger made a presentation at the Academy Colloquium in New Zealand on environmental governance pursuant to an innovative “IPPEP” formula devised by Professor Wang Xi, who proposed this project, using as an example the mostly successful actions taken to preserve the Hudson River in New York. A short version of the presentation will be included in the Colloquium proceedings and the full presentation will be published in the *Pace Environmental Law Review*.
- Brasilia Presentation: Chair Richard Ottinger made a short presentation on “Climate Change and Law” at the *International Colloquium on Climate Change: The Post-Warsaw Agenda* held in the Brazilian Federal Senate on December 6, 2013.

New Projects

The Specialist Group presently has in process two major presentations. One is a presentation being made for the IUCN Academy of Environmental Law Colloquium June 30-July 5, 2014 in Tarragona, Spain on Innovative Methods of Financing Renewable Energy. The other is a presentation being for
the National University of Singapore in mid-July 2014 on Exemplary Adaptation Programs Worldwide.

Major ongoing goals for the Specialist Group include contributing to climate change solutions with position papers and relevant research; restoring energy to the IUCN agenda; and promoting regulations on hydraulic fracturing to protect against water, air, and radiologic pollution. Resolutions on energy and fracking were passed at the IUCN World Conservation Congress in 2012.

(iv) Specialist Group on Ethics

The two main current projects of the Ethics Specialist Group (ESG) are the Biosphere Ethics Initiative (coordinated by Kathryn Gwiadzon) and Earth Democracy (coordinated by Chair Klaus Bosselmann and Ron Engel). Each project involves ongoing research activities, publications and conferences.

Major activities for 2013 included two panels, one workshop and ESG Steering Committee meeting during the Global Ecological Integrity Group conference in Costa Rica (28 June-2 July) and progress towards three new projects to start in 2014: a) implementation of 2012 WCC resolution 004 (“Establishment of the Ethics Mechanism”), b) review of ethical principles in national and international environmental law and c) organization of an Earth Governance conference in late 2015.

Individual members of ESG presented papers on global ethics, Earth law and governance and ethics-related issues of climate change, biodiversity and international environmental law at many conferences around the world.

(v) Specialist Group on Oceans, Coasts, and Coral Reefs

The Oceans Specialist Group had a very productive year. The main highlight of 2013 was the drafting of a legal brief for Case No. 21 of the International Tribunal for the Law of the Sea (ITLOS), a Request for an Advisory Opinion by the Sub-Regional Fisheries Commission. The drafting effort was led by six SG members with the assistance and review by 13 other members. A formal submission of the Written Statement was forwarded on behalf of the Group by IUCN Director-General Julia Marton-Lefèvre and WCEL Chair Antonio Benjamin on November 25.

A further major accomplishment during the year was participating in the IUCN Academy of Environmental Law’s 11th Colloquium held at the University of Waikato, Hamilton, New Zealand in June. The SG organized a panel that reviewed ITLOS’ first advisory opinion on the responsibility of States sponsoring activities in the deep seabed area. Specialist Group members who prepared the first legal brief for that case provided their views on the legal opinion issued by ITLOS in February 2011. SG members participated in other panel sessions as well.

The Oceans Specialist Group also supported the IUCN by providing legal expertise and advice at various UN meetings during the year. Specialist Group members joined the IUCN delegation at the UN Informal Consultative Process on Oceans and Law of the Sea and to the Ad Hoc Working Group on the Conservation and Sustainable Use of Marine Biodiversity Beyond Areas of National Jurisdiction.

(vi) Specialist Group on the Sustainable Use of Soil and Desertification

The Specialist Group on the Sustainable Use of Soil and Desertification (SGSSD) has been active
investigating various options for an international instrument for soil and discussing options with UNCCD Secretariat, international environmental law groups, and soil science groups.

SGSSD was represented at a number of global events including: UNCCD 2nd Science Conference Bonn in April 2013 (SG member Dr. Irene Heuser made a presentation at the Conference on “Options for Reaching a Global Agreement on Zero Net Land Degradation”); Global Soil Week Legal Expert Group Meeting June 2013 Potsdam (GSW Legal Experts Group discussed legal aspects of soil policy, provision of legal expertise to the GSW process, various policy and science aspects of soils, the focus of a new instrument and the legal aspects of zero net land degradation and degradation neutrality); Republic of Korea Meeting on Land-Degradation Neutral World in June 2013 (Dr. Irene Heuser made a presentation on legal options for integrating land and soil issues in UNCCD); UNCCD COP11 September 2013, Windhoek Namibia (WCEL Side Event “Soil and Law: the Legal Aspects of Land Degradation Neutrality” for COP11 was organized by the SGSSD to explore legal tools to implement the concept of Zero Net Land Degradation); second Global Soil Week in October 2013 Berlin (Dialogue Session “Implementing Rio+20: A new instrument to address soil and land degradation under UNCCD).

During 2013 SGSSD contributed to national environmental law reform in Kyrgyzstan, Tajikistan, Mongolia and China including assistance with legislative drafting, reviewing and commenting on draft legislation and preparing documentation on soil legislation.

SGSSD members contributed to, and prepared several publications, including:
Chair Ian Hannam was a lead author of a White Paper prepared for UNCCD 2nd Scientific Conference, Economic assessment of desertification, sustainable land management and resilience of arid, semi-arid and dry sub-humid areas
SGSSD cooperated with IUCN Drylands Initiative Program to prepare the IUCN Policy Brief Land Degradation Neutrality and the SGs, The social, environmental and economic urgency of targets for sustainable land management, Sustainable Development Goals Policy Briefs Series, 2013
SGSSD cooperated with IUCN Drylands Initiative Program in preparation of the publication, Rangeland resource governance: the foundation of sustainable development
SGSSD edited the Discussion Paper for UNCCD COP11 WCEL Side event - Options for a regulatory mechanism under the UNCCD for land degradation neutrality and the sustainable use, management and protection of soils and their functions

(vii) Specialist Group on Water and Wetlands

The Specialist Group on Water and Wetlands (SGWW), led by Chair Owen McIntyre, has completed a number of research and publishing initiatives which have drawn heavily from among the Group’s membership. It has also been called upon to provide water and wetlands-related comments and advice to a number of IUCN-based and externally organized initiatives.

The Chair and other members have promoted the SGWW’s work and made presentations at several key international meetings, workshops, and fora, including, for example, workshops at the Dundee IHP-HELP (UNESCO) Centre for Water Law, Policy & Science; Stockholm World Water Week; meetings at the World Bank Headquarters; and conferences on international water cooperation and transboundary freshwater issues. However, due to work pressures and limited time availability among SGWW members, the Group has struggled to make progress on its three key tasks identified in 2011, i.e. the completion and publication of comprehensive reports on Legal Aspects of Water and Climate Change – Adaptation and Mitigation, Legal and Institutional Arrangements for Transboundary Water Cooperation and The Legal Status, Nature and Implications of the Human Right to Water and
Sanitation.

The SGWW has recently been invited by the Secretariat to the Ramsar Convention to prepare, in collaboration with the IUCN Environmental Law Centre and the IUCN Academy of Environmental Law, a report on *The Ramsar Convention and International Water Law*, which is intended to set out a broader research agenda on the critical topic of *International Water Law and Ecosystems Protection*, which should inform the work of the SGWW for several years to come.

(viii) Joint WCEL/WCPA Specialist Group on Protected Areas Law

Members were involved in the completion of a major research project in conjunction with the IUCN Environmental Law Centre *The Legal Aspects of Connectivity Conservation: A Concept Paper* and the subsequent development and start-up of a research project on Protected Areas Law Capacity Building in collaboration with the IUCN Environmental Law Centre. From April 2013 members were involved in the development of proposals for legal input to the World Parks Congress 2014. A good deal of the work of the Group was done in collaboration with legal officers of the IUCN Environmental Law Centre. Sadly, Dr. Françoise Burhenne-Guilmin, Senior Counsel and former Director of the ELC, who had been an enthusiastic supporter and mentor of the Group, passed away in August 2013, as noted again below.

(IV) Professional Development and Knowledge Management

(A) Professional Development

(i) Interns

Eight interns from Benin, Brazil, Ecuador, Germany, Lithuania, Mexico, New Zealand, and United States worked at the ELC in 2013 for periods of three to six months. They contributed to activities and projects on diverse topics including: access and benefit sharing; water governance; rights-based approaches to conservation; guidelines for protected area legislation; and climate change adaptation.

(B) Knowledge Management

(i) Environmental Law Information Services – ECOLEX

The 20th Steering Committee of ECOLEX was held at the ELC in September 2013. The circumstances of the meeting were sad as two main catalysts of the ECOLEX project, Barbara Moauro and Dr. Françoise Burhenne-Guilmin, both passed away. The representatives of FAO, IUCN, and UNEP agreed to make all efforts possible to continue their legacy: access to information on environmental law and policy. The Steering Committee agreed to continue promoting ECOLEX as the global hub of information in the field of environmental law, stressed the necessity to meet the demand for user-friendly search modes and functional outcomes such as country profiles and mapping and also to review options to revamp the website design.

To date, ECOLEX includes extensive information on 2,145 multilateral and bilateral environmental treaties, 101,154 national legal instruments, 1,567 court decisions and 34,660 bibliographic references to law and policy literature. In 2013, 77,627 users worldwide visited the ECOLEX portal to search for national and international environmental laws and regulations, court decisions, multilateral and bilateral agreements and related literature and policy instruments.
(V) Publications in 2013


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