IUCN Environmental Law Programme

The Year in Review 2014

(I) Introduction

The International Union for Conservation of Nature (IUCN) is an environmental network whose headquarters are in Gland, Switzerland. The IUCN is made up of over 1000 members including States, government agencies and national and international NGOs as well as over 10,000 individual scientists and other experts structured in six Commissions. 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 IUCN Environmental Law Programme (ELP) comprises the World Commission on Environmental Law (WCEL) and the Environmental Law Centre (ELC), in collaboration, as appropriate, with the IUCN Academy of Environmental Law.

The mission of the 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.

As of the end of 2014, the WCEL had over 1,050 members, including judges, prosecutors, government attorneys, private attorneys, law professors, and others engaged in the Commission’s work and mission. This number has continued to grow through strategic outreach to specialists in environmental law in various regions and countries, namely in the regions with less representation. During 2014, WCEL increased its members to over 200 in South and East Asia and over 120 in Africa.

The ELC is a programme unit of the IUCN secretariat. It 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).

In 2014, the ELP continued the implementation of IUCN programme (2013-16), focusing on three global programme areas. First, ‘Valuing and Conserving Nature’ enhances our heartland work on biodiversity conservation, emphasizing both tangible and intangible values of nature. Second, ‘Effective and Equitable Governance of Nature’s Use’ consolidates IUCN’s work on people-nature relations, rights and responsibilities, and the political economy of nature. Third, ‘Deploying Nature-based Solutions to Global Challenges’ expands IUCN’s work on nature’s contribution to tackling problems of sustainable development, particularly in climate change, food security, and social and economic development.

The following section illustrates the efforts of the ELP through promotion and demonstration of the role of law, with a focus on the above-mentioned programme areas.
II) Our Work

A) Programme Area: Valuing and Conserving Nature

i) Species

Despite efforts by national authorities and the international community, the illegal trade in globally threatened species continues to escalate and impair efforts to promote sustainable development. In an effort to explore the maximum use of international legal instruments to tackle the issue, the ELC conducted a scoping study for the World Wild Fund for Nature (WWF) evaluating a proposed wildlife crime protocol to the United Nations Convention on Transnational Organized Crime (UNTOC). The study sought to determine to what extent such a protocol might contribute to addressing wildlife crime, and what legal and technical issues would need to be considered in developing such a protocol.

ELC also worked with the African-Eurasian Migratory Waterbirds Agreement (AEWA) Secretariat on developing a set of guidelines on national legislation for implementing the Agreement and its Action Plan.

ii) Forests

Since 2013, the ELC has been supporting the IUCN Regional Office for Western and Central Africa in the development of the policy chapter of an ecosystem profile for the Critical Ecosystem Partnership Fund (CEPF) on the Guinean Forests Biodiversity Hotspot. In 2014, the policy chapter was drafted to provide an overview of the policy, legal and institutional frameworks related to natural resources management and biodiversity conservation in over ten countries\(^1\) of the region.

iii) Protected Areas

(a) Capacity Building

The ELC, the IUCN World Commission on Environmental Law (WCEL), the 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, continued to work together on the implementation of the project ‘Capacity Building for Protected Areas Law and Governance’.

In 2014, the project delivered the following outputs:

- Development of an e-teaching product for the Convention of Biological Diversity (CBD) website
- Preparation of a generic curriculum for the capacity-building course.
- Development of 5 out of 12 teaching modules in the curriculum
  - Module 1 - Setting the Context (comprising of 2 possible alternative Modules)
  - Module 1A - Setting the Context for Lawyers (Basic PA Concepts)
  - Module 1B - Setting the Context for PA Practitioners (Basic Legal Concepts)
  - Module 2 - Governance Principles and Approaches
  - Module 3 - International and Regional Law

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\(^1\) 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
Initiating the development of video materials corresponding to the teaching modules

 Components of the Capacity Building curriculum were showcased at the World Parks Congress held in Sydney, Australia (see further below).

(b) World Parks Congress

In November, the once-in-a-decade World Parks Congress was held in Sydney. The Congress attracted over 6000 participants from more than 170 countries. Its mission is to engage the international community and set the global policy agenda for protected areas and other area-based conservation. A wide range of members from the WCEL/WCPA Joint Specialist Group on Protected Areas, and ELC staff, especially those involved in the capacity-building work mentioned above, were involved in the Congress, collaborating closely organizing and contributing to some 25 environmental law events. These included:

- A ‘Judiciary and Protected Areas’ panel discussion of the role of the judiciary in area-based conservation, involving senior judges and eminent lawyers;
- A mock International Court of Justice case on coral reef protection issues, in which accomplished mooters from Sydney Law School presented a case to distinguished justices of the Land and Environment Court of New South Wales and a Sydney Law School professor;
- Capacity-building sessions on improving legal literacy for protected areas law and governance, using free interactive face-to-face training materials (see previous section);
- Workshops across seven of the eight streams of the Congress, including sessions on the non-regression principle in protected areas, legal tools to achieve Aichi Target 11, legal aspects of connectivity conservation, environmental rights and human health, law for protection of freshwater ecosystems, governance and the law, conflict-sensitive governance, governance of the high seas, ‘no-go’ policies and commitments, procedural rights, environmental regulation and sustainable harvests, and customary law.

(iv) Water

The WCEL Specialist Group on Water and Wetlands (SGWW) worked tirelessly to promote the SG and completed a number of research and publishing initiatives, which drew heavily from among the membership of the SGWW. It was also called upon to provide water and wetlands-related comments and advice to a number of IUCN-based and externally organized initiatives.

At the invitation of the Secretariat to the Ramsar Convention, the SGWW Chair completed a technical report/briefing paper on ‘The Ramsar Convention and International Water Law: Mutually Supportive Regimes’, 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.

The SGWW has three Sub-groups (all established in 2011) on Climate Change – Adaptation and Mitigation; Legal and Institutional Arrangements for Transboundary Water Cooperation, and The Human Right of Access to Water and Sanitation. Co-Chairs have been appointed to each Sub-group and each prepared a detailed Work Plan to guide its work. In 2014, the SGWW established an Executive Committee of 22 members to carry out initial review of outputs produced by the Sub-groups.

In addition to this, the SGWW represented WCEL at various key international meetings and fora in the last year, to mention a few:

- The SGWW Chair was invited by EBRD Project Complaint Mechanism to organize a one-day symposium on Multilateral Development Bank (MDB) / International Financial Institution (IFI) Safeguard Policies & Independent Accountability Mechanisms, EBRD HQ, 17 Sept. 2014
- The SGWW Chair assisted in organizing a high-level joint European Environment Agency-Scientific Committee / EU Joint Research Council Seminar on Environment, Human Health and Well-Being (EHWB), (Copenhagen, 12 February 2014), intended to frame a research agenda for the European Environment Agency in this emerging area.
- The SGWW Chair invited to participate in the 1st International Environmental Forum for Basin Organizations organized by UNEP, Nairobi, 26-28 November, Nairobi. SGWW Chair acted as Moderator for Theme 3: Laws and Regulations.

With regard to the ELC’s work on water, transboundary water governance remained a major focus. Jointly with the IUCN Global Water Programme and partner agencies, the ELC continued working for the effective implementation of BRIDGE (Building River Dialogue and Governance). In addition to the Andes, Mesoamerica and Asia regions, BRIDGE extended its work to the African region, covering five African basins in the Horn of Africa, Eastern and Southern Africa, and West and Central Africa.

In January, the ELC participated in the second meeting of the General Assembly of the Bi-national Commission of the Sixaola River Basin in Central America. Also in this month, the ELC held a one-day capacity-building course on the benefit-sharing approach. Benefit sharing provides the possibility to separate the physical allocation of water from the economic (or other value) distribution of the benefits of water and therefore presents an alternative to traditional negotiation of water agreements. The course was held during the Central American Water Champions Network Meeting.

Within the framework of the BRIDGE support facilities, the ELC coordinated courses on capacity building for high-level authorities and diplomats as well as for local-level representatives. The courses focused on legal, policy, institutional, and economic aspects of transboundary water governance including practical exercises to put the skills and concepts gained into practice. These training courses were given in March at the Peruvian Ministry of Foreign Affairs in Lima; in June at the Ministries of Foreign Affairs in Honduras and El Salvador respectively and at a sub-basin pilot site of the Sumpul river basin in El Salvador. In July, a training course on transboundary water governance was held in Siem Reap, Cambodia, with participation of officials from Thailand, Vietnam, Cambodia and Lao PDR. In September, in Ho-Chi-Minh City, Vietnam, the participants at this training course were selected from different actors in the Mekong River Commission. In the same month, the ELC held a training course on Hydro-diplomacy directed to professionals from the Diplomatic Academy of Vietnam in Hanoi. The main focus of this course was on the UN Watercourses Convention, which was
recently ratified by Vietnam; this ratification brought the Convention into force.

In November, the ELC together with the Eastern and Southern Regional Office (ESARO) organized two regional training workshops in Bergville, South Africa. The participants were actors from the four Orange-Senqu River Basin riparian countries (Botswana, Lesotho, Namibia and South Africa). The aim of the workshops was to strengthen the institutional capacity of non-governmental institutions and governmental institutions responsible for the management of shared river basins. Participants in the first workshop were stakeholders from local non-governmental institutions, while those of the second workshop on International Water Law and Ecosystem Approach were high-level decision makers from the Orange-Senqu River Commission (ORASECOM) and the Pungwe River Basin.

In 2014, the ELC also participated in a number of international conferences and assemblies related to water governance, as follows.

The ELC was invited to the second workshop on ‘River Basin Commissions and other Joint Bodies for Transboundary Water Cooperation: Technical Aspects’, hosted by the UNECE in Geneva in April. The ELC chaired the first session called ‘Making environmental protection work in transboundary cooperation’.

In September, during the World Water Week held in Stockholm, Sweden, the ELC co-organized two seminars: ‘The Nexus in a transboundary context: building partnerships to bridge cooperation’ and ‘How the global legal frameworks for transboundary cooperation help to prevent conflict and balance multiple water uses’. The book ‘Governance of Shared Waters: Adaptation to Climate Change’ (IUCN Environmental Policy and Law Paper No. 75) was also officially launched at the event.

In October, the ELC participated in and made a keynote speech on water governance at the Standing Committee on Sustainable Development, Finance and Trade in the 131st Assembly of the Inter-Parliamentarian Union, in Geneva, Switzerland.

In November the ELC participated in the World Park Congress at Sydney, Australia, specifically in a session entitled ‘Freshwater Ecosystems in Protected Areas: Effective Protection through Conservation Law’.

(v) Marine

For the WCEL Specialist Group on Oceans, Coasts and Coral Reefs, the major highlight of the year was the preparation and submission of a legal brief on behalf of the IUCN WCEL to the International Tribunal for the Law of the Sea (ITLOS) in Case No. 21, Request for an Advisory Opinion Submitted by the Sub-regional Fisheries Commission. This was followed by the presentation of oral arguments in the case by Nilufer Oral, Co-Chair of the Oceans Specialist Group and specialist group members, Cymie Payne and Anastasia Telesetsky.

The Oceans Specialist Group also provided substantial support to the IUCN Academy of Environmental Law and the convening of its 12th Colloquium in Tarragona, Spain, June 30 – July 5. Close to a dozen members presented papers on ocean law and policy-related topics and four members, including the co-chair David VanderZwaag, chaired panel sessions.

The Oceans Specialist Group was also actively engaged in events at the IUCN World Parks Congress held in Sydney, Australia in November. Nilufer Oral was co-leader with Kristina Gjerde, High Seas Adviser to the GMPP and Lydia Slobodian, legal officer from Environmental Law Centre, for a panel and workshop on the high seas as part of Governance Stream 6. Oceans Specialist Group member
Marta Ribeiro made a presentation on the high seas panel on ‘Straddling NE Atlantic Legal Framework’. Nilufer Oral, representing the marine dimension together with Ben Boer, WCEL Deputy Chair, co-led a panel on no-go zones. Nilufer Oral gave a presentation on oceans and climate change on a panel in the climate change stream. Specialist group member, Tim Stephens with Ben Boer organized a moot court case before the International Court of Justice on state responsibilities relating to climate change and ocean acidification.

In 2014, the ELC continued engaging in the international process concerning the high seas, focusing on a potential UNCLOS Implementing Agreement on Conservation and Sustainable Use of Marine Biodiversity in Areas Beyond National Jurisdiction (ABNJ).

In February, the ELC was invited by the Governments of Mexico and New Zealand to present options for access and benefit sharing (ABS) related to marine genetic resources in ABNJ. An informal seminar was held in New York at the Rockefeller Brothers Fund’s Pocantico Center on issues related to a new international instrument on the subject. The objective was to help UN delegations advance the discussions regarding the conservation and sustainable use of biodiversity in ABNJ and provide a good basis for the forthcoming meetings of the UN Ad Hoc Open-ended Informal Working Group.

In April, the ELC participated in the 7th meeting of the UN Ad Hoc Open-ended Informal Working Group. Before the meeting, the ELC, with support of members of the WCEL Specialist Group on Oceans, Coasts and Coral Reefs, finalized and shared 13 briefs on the scope, parameters and feasibility of a potential international instrument for the conservation and sustainable use of biodiversity in ABNJ with key negotiators and regional groups. The ELC also collaborated with the IUCN Global Marine and Polar Programme on a side event on ‘An International Instrument on Conservation and Sustainable Use of Biodiversity in Marine Areas beyond National Jurisdiction - Exploring Different Elements to Consider’.

In May, the ELC participated in a regional workshop on ABNJ, organized by the Government of Jamaica in collaboration with the Pew Charitable Trust and The High Seas Alliance, and a regional workshop for African Member States, organized by the Pew Charitable Trust in collaboration with the Republic of South Africa and the Republic of Uganda.

In June, the 8th meeting of the UN Ad Hoc Open-ended Informal Working Group was also attended by the ELC and a side event on ‘Research and Development on Marine Genetic Resources - Current Practices within the Marine Scientific Community’ was co-organized by the ELC. At the request by the High Seas Alliance, the ELC prepared a paper outlining possible ideas, approaches and problems connected to a future ABS regime for marine genetic resources from ABNJ. The paper was used to inform delegations of the need for an UNCLOS Implementing Agreement.

In December, a review workshop on ‘Collation of Building Blocks and Different Options for an UNCLOS Implementing Agreement’ was held at the ELC, Bonn, Germany. The workshop brought together a team of international experts in the field of law of the sea, including those from the WCEL Specialist Group on Oceans, Coasts and Coral Reefs, to review a series of draft documents containing possible options for an UNCLOS Implementing Agreement. It was considered that the approach taken was successful and that many interesting ideas for a future Implementing Agreement were presented.

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

(i) Natural Resources Governance Framework
The Natural Resources Governance Framework (NRGF) is one of the flagship knowledge products included in the IUCN 2013-16 Programme. 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. As part of its work on the development of a legal component for the IUCN Natural Resources Governance Framework (NRGF), the ELC and IUCN WCEL have initiated collaboration with six universities and institutions from Australia, New Zealand, China, South Africa and Brazil in 2014. These teams assessed different legal principles and natural resource issues applying a methodology developed in 2013.

In July, the different institutions collaborating on the development of a legal component for the IUCN NRGF came together to discuss and clarify issues relating to the project. Further guidance was given to the different university teams conducting research to test the methodology. In October, after the first draft reports were submitted by the teams, a review workshop was held at the ELC. During the workshop, it was concluded that the methodology was effective in providing insights into the operation of systems of governance. However, suggestions were made to further improve the reports and the methodology. The final publication is planned to be completed and launched at the next colloquium of the IUCN Academy of Environmental Law in September 2015.

(ii) Access and Benefit Sharing

As a member of the consortium for two European Commission funded projects – Marine Microbial Biodiversity, Bioinformatics and Biotechnology (Micro B3) and PharmaSea – the ELC continued providing its expertise on access and benefit sharing (ABS) to the development of different tools to facilitate ABS compliance in marine research and development activities.

From January to June 2014, the ELC offered an ABS helpdesk to support scientists in complying with ABS obligations for the Ocean Sampling Day (OSD), a simultaneous sampling campaign of the world’s oceans. These cumulative samples, related in time, space and environmental parameters, provide insights into fundamental rules describing microbial diversity and function and contribute to the blue economy through the identification of novel, ocean-derived biotechnologies.

In February, during the meeting of the Intergovernmental Committee on the Nagoya Protocol (ICNP-3), the ELC, in collaboration with partners from the EU PharmaSea and MicroB3 projects, organized a well-attended side event on the topic of ‘Marine Genetic Resources and the Nagoya Protocol: Preparing the Marine Scientific Community’. The ICNP-3 meeting also provided an opportunity to discuss further collaborations related to ABS issues.

During the latter half of the year, the ELC worked on a MicroB3 Stakeholder Workshop ‘At the Crossroads of Open Access to Data with Access and Benefit-Sharing – Promoting Pre-competitive Scientific Research’. The objective of the project was to inform policymakers and stakeholders on scenarios of data flow associated with genetic material and the importance of research and clear regulation of data access, transfer and related benefit sharing. The workshop was held in September and resulted in three tools aimed at providing a set of balanced and simple rules for fostering maximum utilization of research results and at the same time ensuring compliance with the Nagoya Protocol.

The year 2014 was the inaugural year for the Joint Specialist Group on Access and Benefit Sharing and Related Issues (JGB-ABS), under the leadership of Tomme Young as Chair of the Joint Specialist Group. In its first year, JGB-ABS also identified two co-Vice Chairs, Lily Rodriguez of the Species Survival Committee (SSC) and Evanson Chege, a member of WCEL.
As stated in the original JSG-ABS proposal, the group has relevance to all three thematic components of the IUCN Programme Plan (2013 – 16): It offers a relatively new approach to the goal of enhancing the recognition of the value of nature, particularly since the utilisation of genetic resources does not necessarily require mass harvesting or collection of particular valued species, and because the goal of ABS is to provide benefits that are clearly recognised to arise from nature and its conservation. It supports effective governance, in light of ABS’s basic underlying foundations on equity and legal support. Finally, ABS is potentially a virtual archetype of a ‘nature-based solution’ to the ‘global challenge of development’.

As a new group, membership growth was a priority in 2014 and will continue to be in 2015. JGB-ABS has sent solicitations to a list of 70 to 80 potential members around the world from the law and policy ranks asking them to join the new Specialist Group and is also working with the SSC to solicit membership through their mailing lists and networks, so as to create a more robust membership base from both commissions. In 2014, efforts were also focused on identifying the common elements of concern between the ‘WCEL (law-policy) element’ of the JSG-ABS and the ‘SSC (research-science) element.’ These efforts are further outlined in the JSG-ABS Joint Work Plan that is currently under revision, pending submission, and are also reflected in the proposals for ongoing projects that were started in the last year, which are mentioned below and will continue to develop through 2015.

In August, the Chair and one of the Vice-chairs attended the SSC Council session, in which ABS identified potential work areas of interest to SSC, including the following project proposals to be carried out in collaboration with the ELC:

1. Draft guidelines on how to apply ABS to protected areas;
2. Draft guidelines on how to apply ABS to endangered species; and
3. ABS Capacity and Ombudsman Programme.

Through these projects, JSG-ABS intends to support the development of balanced guidelines for the implementation of ABS that recognise the needs of research, conservation, sustainability and equity, in promoting the voluntary implementation of ABS within the research and commercial communities. Furthermore, through the ‘ABS Capacity and Ombudsman Programme’, the JSG-ABS intends to develop and provide an ‘information channel’ or ‘ombudsman service’ so that governments, companies, NGOs and individuals can obtain expert advice from and/or identify individual persons whose ABS expertise can help them.

In 2014, JSG-ABS also established a connection with the GEF and Convention on Biological Diversity (CBD) Secretariats, as well as the IUCN Focal Point for the Global Environment Facility (GEF), in an effort to develop and offer resources that support capacity-building at local, national, regional and global levels. The JSG-ABS is preparing various proposals for potential work together with the GEF. In addition to implementation, such projects are intended to help fund the information-tool development that is the primary purpose of the JSG-ABS.

(iii) Armed Conflict and the Environment

In 2014, the work of the WCEL Specialist Group on Armed Conflict and the Environment (ACE) continued to focus 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 the
International Law Commission (ILC) of a Special Rapporteur on Protection of the Environment in Relation to Armed Conflict, Marie Jacobsson. Her analysis focuses on international law relating to protection of the environment before, during and after conflict. The Specialist Group has shared analyses and resources related to protection of the environment during armed conflict and the role of the environment and natural resources after conflict, and considered legal rules concerning actions before conflict to protect the environment (such as designating protected areas as no-go zones). The SG submitted comments on the Special Rapporteur’s report and co-convened a seminar on Protection of the Environment during Armed Conflict, to support the work of the Special Rapporteur, further discussed below.

Work on the role of natural resources in post-conflict peacebuilding focused on finalizing the publication of three edited books, the development of policy briefs, and expanding the online knowledge platform for environmental peacebuilding for disseminating key findings and materials.

Throughout the year, the SG focused on various goals:

One of the main goals, as mentioned above, was to support the efforts of the ILC in its work on the protection of the environment in relation to armed conflicts. In this regard, various efforts were carried out, such as providing input to the ILC on taking measures for the protection of the environment in relation to armed conflicts before conflict by establishing protected areas. The SG also participated in a seminar on ‘Peacebuilding and Environmental Damage in Jus Post Bellum: Clarifying Norms, Principles and Practices,’ that was held in The Hague in June of 2014. In addition to giving presentations, the SG spoke with Marie Jacobsson, the ILC Rapporteur, about how the SG could support the ILC in its work on the protection of the environment in relation to armed conflict. Plans were established to hold a consultation in New York in conjunction with the UN General Assembly to educate member states about international law protecting the environment in relation to armed conflict, and particularly during armed conflict. Furthermore, an elaborate comment on the first report of the ILC Special Rapporteur by Co-Chair Michael Bothe will soon be published.

In October of 2014, the SG co-sponsored a Seminar on the Protection of the Environment During Armed Conflict. Held at the UN Headquarters, this event was co-sponsored with the Permanent Missions to the United Nations of Sweden, Denmark, Finland, Iceland and Norway, and Rutgers University, at which the SG gave several presentations. The SG also discussed the issues of protection of the environment during armed conflict with the International Committee of the Red Cross (ICRC), which is considering a revision of its 1994 ‘Guidelines for Military Manuals and Instructions on the Protection of the Environment in Times of Armed Conflict’.

Another main goal was to move forward in the publication process with the three edited volumes on Post-Conflict Peacebuilding and Natural Resource Management, listed below:

1) Published and launched “Water and Post-Conflict Peacebuilding”;
2) Sending to press “Livelihoods, Natural Resources, and Post-Conflict Peacebuilding” (publication anticipated February 2015)
3) Made substantial progress on editing, layout, proofreading of “Governance, Natural Resources, and Post-Conflict Peacebuilding” (publication anticipated Q1/Q2 2015)

Expanding the Environmental Peacebuilding Community of Practice was also a main focus in 2014. The community grew to over 2,100 participants, including both WCEL members and non-members. The group also developed an Environmental Peacebuilding Update to provide biweekly updates on developments in environmental peacebuilding. In addition, the library of resources on environmental peacebuilding was expanded to more than 1,100 documents with tagged topics, keywords, and countries. Much of this work was carried out with the help of WCEL members.
An Environmental Peacebuilding Academy was also launched in 2014 with the objective of developing curricula and training materials in 2015. The SG will continue to focus on the expansion of the online environmental peacebuilding platform through the next year.

(iv) Compliance and Enforcement

In 2014, the Specialist Group on Compliance and Enforcement (C&E) advanced its goal of collaborating with China on air pollution compliance and enforcement. Air pollution is a severe environmental challenge in China, shortening the life expectancy of millions of residents. As China introduces rules to control air pollution, it is important to have effective tools for ensuring high levels of compliance with these rules to achieve the intended environmental protection benefits. In working with colleagues in China to develop strategies around compliance issues, the C&E SG advocated for building capacity of the lawyers, public prosecutors, and judges at the front line of responding to these challenges, noting a 2014 Opinion of the Supreme People’s Court of the People’s Republic of China on comprehensively strengthening the judicial work concerning environmental resources, including clean air.

SG Chair Ken Markowitz delivered remarks on the importance of assuring compliance with laws to control emissions of air pollutants at two key workshops in China. The first of these, Restoring Blue Skies: Accelerating Air Pollution Control concluded that ‘[f]or better enforcement of environmental regulations, China must establish a clear, fair and credible enforcement mechanism.’ The second workshop, an annual meeting of China’s Subcommittee on Environmental Enforcement, provided an additional opportunity to stress the importance of effective enforcement mechanisms for environmental protection.

An additional priority in 2014 for the C&E SG was encouraging lawyers and other legal practitioners to submit case examples of new legal approaches. The best of these examples were included in a Special Report on Next Generation Compliance issued by the International Network for Environmental Compliance and Enforcement (INECE). The Report explores the technological innovations, new approaches to regulatory design and implementation, and social innovations comprising the leading edge of NextGen Compliance activities. The Report is online at http://inece.org/resource/next-gen-report/.

Priorities for the C&E Specialist Group in 2015 will include continued development and implementation of work in China on air pollution controls, focusing on the role of lawyers, prosecutors, and judges in environmental compliance and enforcement.

Additionally, the Specialist Group will collaborate with partners including the IUCN Academy of Environmental Law to advance ongoing work on Next Generation Compliance from a legal perspective through conferences at George Washington University Law School (GW Law) and at Erasmus University in March and April 2015. The GW Symposium will address the role and legal implications of advanced monitoring, remote sensing and new forms of information management in environmental compliance and enforcement. SG Chair Ken Markowitz will speak on a panel on information gathering, analysis, and disclosure. The Erasmus University conference will explore the use of management systems and the role of behavioral motivations in environmental compliance and enforcement.

(v) Ethics

The two main current projects of the Specialist Group on Ethics (ESG) in 2014 were and will continue...
to be the Biosphere Ethics Initiative and Earth Democracy. Each project involves ongoing research activities, publications and conferences.

Major activities included three panels and a workshop at the 12th Annual Colloquium of the IUCN Academy of Environmental Law in Tarragona, Spain. Here, the ESG explored the importance of ethics for international policy, law and governance. Two areas were used to focus the discussion: the Earth Charter and climate change. Following this, two ESG members, Prue Taylor and Donald Brown, facilitated and contributed to a book directed toward deepening the understanding of national responses to climate change on the basis of ethics and justice. For more information see: http://blogs.law.widener.edu/climate/2014/07/07/a-call-for-researchers-on-a-project-on-deepening-national-responsive-to-climate-change-on-the-basis-of-ethics-and-justice/

Related to Earth Democracy, the Chair initiated a 3-year cooperation, provisionally entitled ‘Planet Governance Project’, between the Planetary Boundaries Initiative (Stockholm, London), the Earth Systems Governance Project (Amsterdam), the Global Ecological Integrity Group, ESG and other networks to conduct a ‘healthy planet check’ through assessing the process of UN Sustainable Development Goals (SDGs) and developing an ethics-based approach to SDGs, global governance and law. Among the aims are the establishment of a ‘Global Commission for a Healthy Planet’ and a ‘Planet Governance Report’ to be presented to the next IUCN World Congress 2016 in Hawaii.


The ESG developed a website to share its work and store important documents related to past and current projects. Their hope is that the website will also work as an interactive blog that enables ESG members to publish short op-ed essays. While currently under development, the website can be viewed: http://ethicsspecialistgroup.wordpress.com

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. In particular, the ESG continued their long association with the Global Ecological Integrity Group.

(vi) Indigenous Peoples Customary and Environmental Laws and Human Rights

For the World Commission on Environmental Law and the Commission (CEESPI) Specialist Group on Indigenous Peoples, Customary & Environmental Laws and Human Rights (SPICER) there have been several key outcomes in 2014 including: (a) work around the Mesoamerican Parks Congress (March 2014) and organizing of stream 7 of the World Parks Congress (November 2014) (b) the Natural Resource Governance Framework and analysis of the UN Declaration on the Rights of Indigenous Peoples as the necessary framework for Conservation with Indigenous Peoples (Draft Guide on Conservation and Indigenous Peoples in Mesoamerica), (c) contributions to ongoing discussions on Indigenous Peoples’ Membership in IUCN, and (d) continue to contribute to the discussion and analysis of a rights based approach to conservation.

The Specialist Group, at its core, has a focus to deepen awareness, provide analysis, and offer recommendations for conservation that takes into account indigenous peoples’ distinct human rights as it relates to their environment, lands, territories, and natural resources. For indigenous peoples, their human rights are not separate from their lands and environment, therefore environmental and human rights must be fully integrated in all aspects of work. The emphasis of the Specialist group has been to contribute to the development of improved conservation practices with indigenous
peoples based on the UN Declaration on the Rights of Indigenous Peoples (UN Declaration) and linking it to existing IUCN commitments and mandates to ensure concrete recommendations for a rights-based approach with specific emphasis on indigenous peoples’ human rights within conservation. The Specialist Group holds several key substantive rights at the center for improving all other rights such as, (1) self-determination and self-government, (2) collective rights, and (3) sovereignty. Indigenous peoples and indigenous leaders have worked for more than 30 years at the United Nations for recognition as sovereign nations and governments. Indigenous peoples continue to fight for the right to collectively manage, control, use and own their lands, territories, natural resources and environment. Many indigenous leaders continue to sacrifice their lives for these core rights, and for the right to protect their environment from all threats, including potential projects under conservation initiatives.

Areas of growth from 2014 remain focused on generating a structure between CEESP and WCEL around the joint commission structure and work programme, regular communication between both Commissions and identifying individuals that can link and contribute to both CEESP and CEL goals and objectives.

(vii) Land Tenure
In an effort to improve the land tenure regime, the government of Cameroon initiated the most important land tenure reform process since the adoption of Ordinance No. 74 of 1974. The ELC provided a preliminary report to the IUCN Cameroon country office to clarify some of the legal concepts around land tenure discussions, to emphasize the importance of securing land rights for environmental purposes and to highlight some challenges to be considered in the upcoming reform in Cameroon.

(C) Programme Area: Deploying nature-based solutions to the global challenges of climate change, food security and sustainable development

(i) Climate Change

Collaborating closely with IUCN Global Protected Areas Programme and regional offices in Asia, East and Southern Africa and South America, the ELC launched the implementation of a new project ‘Integrated Planning to Implement the CBD Strategic Plan and Increase Ecosystem Resilience to Climate Change’ in 2014.

The purpose of the project is to contribute to the implementation of the CBD Strategic Plan for Biodiversity 2011-2020 by strengthening participatory land-use exercises in areas of ecological importance by integrating biodiversity and climate aspects into legal and institutional land-use planning frameworks in Vietnam, Tanzania, Zambia and Colombia.

In April, the Project Launch Workshop for Colombia was carried out with members of the Ministry of the Environment, the Ministry of Housing, the Natural Parks Unit and the Municipalities of Santa Rosa and Los Colorados. The ELC made presentations on the pilot and outlined a work plan for 2015 to support the land-use planning pilot exercises. In May, IUCN and the South West Steering Committee (SWSC) of Vietnam also organized a project inception workshop in Can Tho City.

One of the main components of this project was to produce a global assessment containing a wide selection of successful case studies to illustrate innovative and effective legal, policy and procedural land-use planning options. In September, the ELC presented the integrated planning project at the Second European Environmental Law Forum (EELF) focused on ‘Environmental and Planning Law Aspects of Large Scale Projects’ in Brussels. As a result of this meeting, the ELC engaged over ten legal experts to conduct legal studies on spatial planning across the world.
In 2014, the ELC continued providing legal support to REDD+ related work led by the IUCN Global Forest and Climate Change Programme (GFCCP). Three country reports analysing national policy, legal and institutional frameworks of Ghana, Mexico and Peru were reviewed and improved by the ELC. Based on the country assessments, the ELC also produced a comparative study on legal and institutional framework for designing and implementing pro-poor oriented benefit-sharing schemes.

In 2014, the main highlight of the WCEL Specialist Group on Energy and Climate Change was the decision made by the IUCN Council to increase the IUCN involvement in the mainstream climate change negotiations using its observer status, create a new high level Climate Change Task Force to which SG Chair Dick Ottinger was invited, and expand IUCN’s involvement to include action on the principal energy causes of climate change. This opened up a broad range of opportunities for the SG to assist IUCN in addressing these crucial issues that are the main focus of the UNFCCC COP negotiations.

In addition, the SG and its members published a number of studies in 2014; to mention a few:


2. Nicholas Robinson presented as paper at a conference in Singapore sponsored by the Centre for International Law (CIL) of the National University of Singapore, on ‘REMEDIES FOR SHORTCOMINGS IN TRANSBOUNDARY ENVIRONMENTAL STEWARDSHIP.’ The paper will be included in a book on this theme to be published in 2015.

3. ‘Third Generation Environmental Rights Related to Environmental Decision-Making and Genetically Modified Organisms for Sustainable Development’, Abdul Haseeb Ansari and Saad Abu Al-Gasim, Advances in Environmental Biology, 8 (13), August 2014, pages: 552-566. (Corresponding Author). (ISI/SCOPUS) 64

4. The Islamic Approach to Conserving Biodiversity for Global Sustainability: An Exploration’, Abdul Haseeb Ansari, Advances in Environmental Biology, 8(3) Special 2014, pp. 748-764. (Co-author: Lekha Laxman). (ISI/SCOPUS)

5. Publication and presentation at the IUCN Academy Colloquium in Tarragona, Spain of an article, Innovative Funding of Renewable Energy.

6. Publication and presentation at an APCEL climate change adaption workshop of the National University of Singapore of an article, Options for Adaptation to Climate Change.

Another major highlight for the SG was the work spearheaded by member Professor Wang Xi of Shanghai Jiao Tong University to assist the government of China to address its environmental problems. The SG carried out a major study with Professor Wang last year of the factors that made for success or failure of efforts to implement environmental laws, using the initiatives to preserve the Hudson River as case studies. Professor Wang invented a formula for demonstrating the actors and requisites for successful environmental law implementation. The conclusion was that independent NGOs were required and authorized to sue polluters and requisite government agencies and an independent judiciary with authority to require compliance with the laws. The study was published in the Pace Environmental Law Review and presented at the IUCN Colloquium in New Zealand. Professor Wang Xi had the study translated into Chinese and presented it to the Chinese environmental agencies. In January 2015, the Chinese government adopted a new environmental law that authorizes NGOs to sue polluters (but not the government) in environmental courts that had already been established.
(ii) Sustainable Soil and Agricultural Systems

In 2014, the WCEL Steering Committee decided to form the new Specialist Group ‘Sustainable Soils and Agricultural Systems’ with two Co-Chairs (Ian Hannam and Irene Heuser Deputy Chair, Soil; P. Martin, Agricultural Systems). A SG draft Plan was prepared and it is proposed the new Plan will commence in January 2015.

The Plan that was developed in 2014 presents several general goals for the recently restructured SG:

- Systematic progress towards improved governance of soils and agricultural systems;
- An active and engaged membership of the SG who value their participation in the SG;
- A mechanism for disciplined continuous improvement in theory and practice of legal aspects of natural resource governance;
- Continue to implement the work of the former Soil SG based on the parameters of the first ‘Soil’ Resolution of the IUCN World Conservation Congress, Amman Jordan 2000, which requests the IUCN Environmental Law Programme – ‘in its development of legal guidelines and explanatory material, and investigation into a global legal instrument for the sustainable use of soils, to pay particular attention to the ecological needs of soil and their ecological functions for the conservation of biodiversity and the maintenance of human life’.

The SG was very active at the national and international level throughout 2014, particularly given the growth in global interest for an international instrument for soil, led by the UNCCD Secretariat. This is a response to outcomes of Rio+20 in relation to a Sustainable Development Goal for land degradation neutrality (a land degradation neutral world).

The Soils and Agriculture SG has been active in investigating various options for an international instrument for soil and discussing options with UNCCD Secretariat, the German Federal Environment Agency, international environmental law groups, and soil science groups.

SG members were also represented WCEL and gave papers at various global events including: EU Soil Biodiversity Indicators project workshop in Dijon, France (Ian Hannam) and the Soil Legislation International Workshop in Berlin, Germany (Irene Heuser, Ian Hannam, Bernard Vanheusden and Ben Boer).

As a part of the IUCN Core Group advising the IUCN Dryland Initiative Programme, the SG contributed to the preparation of several books in 2014 and will continue in 2015:

- SG is cooperating with the IUCN Drylands Initiative Programme in the preparation of the ‘Technical Guideline to implementing the Voluntary Guidelines on Governance of Tenure in pastoral rangelands’.

During 2014, members also contributed to the publication of numerous other works and presentations, as well as a number of continuing initiatives in national soil legislation and policy reform.

Of significance to the ongoing support provided by SG to the UNCCD Secretariat is also the COP11 Decision – ‘Follow-up to the outcomes of the United Nations Conference on Sustainable Development (Rio+20)’, which provides for the establishment of an Intergovernmental Working Group to: ‘(1) establish a science-based definition of land degradation neutrality in arid, semi-arid
and dry sub-humid areas; (2) develop options relating to arid, semi-arid and dry sub-humid areas that Parties might consider should they strive to achieve land degradation neutrality; and (3) advise the Convention on the implications for its current and future strategy, programmes and the resource requirements’.

(V) Leverage and Outreach

The ELP through WCEL has continued developing programmes 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: This programme area was certainly a main focus for WCEL in 2014. Building on the work from last year, the Commission made important progress in 2014 in the development of the IUCN Global Judicial Institute for the Environment. The Institute’s purpose is to build capacity and elevate the role of the judiciary in environmental law by providing information, further education and general support to courts that regularly adjudicate environmental matters.

In November 2014, a series of meetings and events took place in Brazil, where WCEL participated in the organization of a Plenary Session of the International Judges’ (IAJ) Annual Meeting, as well as a discussion workshop, together with the Brazilian Association of Judges (AMB) and UNEP, to develop the design of the Global Judicial Institute for the Environment. These meetings also served to build dialogue among the judges on environmental principles and issues and to establish a point of convergence for efforts on judicial training. The WCEL, UNEP and AMB representatives also met with the leadership of the IAJ to discuss support for creating a Study Committee on environmental matters.

Environmental Law Principles: Another important programme area set forth by WCEL was the engagement of members and experts in developing analyses of both the well-established and newly emerging environmental principles, including: 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.

Sustainable Development Goals: In 2014, WCEL was active in promoting further dialogue on the role and importance of law in establishing and implementing the sustainable goals (SDGs) through its participation in various meetings and colloquia. The concept of SDGs has been promoted and integrated within the UN System as part of its post-2015 development agenda. In January 2014 and in December 2014, Chair Emeritus Nick Robinson participated in the UN Open Working Group on SDGs meetings in New York, representing the Commission. The WCEL Specialist Group Chairs participated in a Colloquium on SDGs in December at the Brazilian Senate, in which several Brazilian politicians and representatives from environmental NGOs also participated.

Outreach in Africa and Asia

WCEL has remained dedicated to bringing its work to historically underrepresented regions of the world, particularly in Africa and Asia. The year 2014 marked a significant scaling up of outreach initiatives in Africa and Asia. WCEL Chair Justice Antonio Benjamin travelled to Kenya in June 2014 for the Global Symposium on Environmental Rule of Law to meet with environment ministers, Supreme Court justices, parliamentarians, academics, and others to further capacity building efforts in environmental law in the region.
Efforts to bolster environmental law in Asia also continued throughout the year. In addition to the critical work carried out by the WCEL Specialist Group on Energy and Climate Change with China in developing more successful environmental law implementation, WCEL was present at various important meetings with the intention of supporting capacity building efforts and the environmental law practice network in the region. In March 2014, both the Chair and Deputy Chair attended meetings with the Asian Development Bank in Manila. The Chair also attended meetings in Indonesia at the Supreme Court and Ministry of Environment.

(VI) Professional Development and Knowledge Management

(i) Judicial capacity building

The WCEL Chair met with the Association of Judges of Lusophone Countries, the Brazilian Association of Judges and the Portuguese Association of Judges to focus on the judicial capacity-building for the Portuguese speaking countries of Africa. The purpose of this continued effort is to train judges in Angola, Mozambique, Guinea Bissau, Cape Verde and São Tomé and Príncipe.

(ii) ELC Interns

Eight interns from Canada/UK, France, Kenya, Lithuania, Italy, Sweden and Thailand worked at the ELC in 2014 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; protected areas; and climate change adaptation.

(ii) Knowledge Management

Environmental Law Information Services – ECOLEX

ECOLEX, a global hub of information in the field of environmental law, includes data on treaties, international soft-law and other non-binding policy and technical guidance documents, national legislation, judicial decisions, and law and policy literature.

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 2014, 133,441 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.

Thesaurus on Environmental Law and Conventions

The UNEP-supported MEA Information and Knowledge Management Initiative harmonizes MEA information systems to enable the development of knowledge tools for Parties. One of the projects the Initiative pursues is the development of a Thesaurus on Environmental Law and Conventions, an initiative funded by the European Union. After a call for bids and an interview, the implementation was awarded to the IUCN ELC. In December 2014, the first working meeting on the Thesaurus was organized in Bonn, Germany. The ELC team will work closely with selected MEA secretariats to develop the Thesaurus in 2015.

(VII) Selected Publications in 2014

- Ethics and Climate Change. A Study of National Commitments, Donald A. Brown and Prue
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Authors: Ning Li (ELC Programme Officer), Monica Pacheco-Fabig (ELC Project Implementation Assistant), Maria Magdalena Arréllaga (WCEL Executive Officer).