



**CONVENTION ON  
BIOLOGICAL DIVERSITY**

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CONFERENCE OF THE PARTIES TO THE  
CONVENTION ON BIOLOGICAL DIVERSITY

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Item 18 of the provisional agenda

**RELATIONSHIP OF THE CONVENTION WITH OTHER  
CONVENTIONS, INSTITUTIONS AND PROCESSES**

**MODALITIES FOR ENHANCED COOPERATION WITH RELEVANT  
BIODIVERSITY-RELATED BODIES**

**Note by the Executive Secretary**

**1. INTRODUCTION**

**1.1 Mandate**

1. Article 23, paragraph 4(h), of the Convention on Biological Diversity requires the Conference of the Parties to contact, through the Secretariat, the executive bodies of conventions dealing with matters covered by the Convention with a view to establishing appropriate forms of cooperation with them. Article 24, paragraph 1(d), requires the Secretariat to coordinate with other relevant international bodies and, in particular, to enter into such administrative and contractual arrangements as may be required for the effective discharge of its functions. At its first meeting, the Conference of the Parties (COP) requested the Executive Secretary to make contact with the secretariats of related conventions to establish appropriate forms of cooperation as provided under Article 23 (decision I/5). At its second meeting, the COP considered a paper on cooperation with other

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biodiversity-related conventions (UNEP/CBD/COP/2/inf.2) and adopted decision II/13.

2. In decision II/13, the COP also requested the Executive Secretary to prepare a report for its third meeting on the implementation of decision II/13 on cooperation with other biodiversity-related conventions, containing concrete recommendations aimed at promoting and strengthening institutional cooperation with other global and regional biodiversity-related conventions. This report is contained in document UNEP/CBD/COP/3/29. The Executive Secretary was also requested, in decision II/13, to report on modalities for enhanced cooperation with relevant international biodiversity-related bodies such as the Food and Agriculture Organisation (FAO), the United Nations Educational, Scientific and Cultural Organisation (UNESCO) and the Commission on Sustainable Development (CSD).

2. This document has also been prepared by the Executive Secretary with a view to assisting the COP to begin to prepare for the overall review of work under the Convention and the consideration of a longer-term programme of work for the Convention that is due to be undertaken at the fourth meeting of the COP.

## **1.2 The Scope of This Note**

3. This Note seeks to explore possible elements of a *modus operandi* for the Convention in its relations with other conventions and institutions, elaborating upon some of the proposals for cooperation with other biodiversity-related conventions contained in document UNEP/CBD/COP/2/inf.2. In doing so, it draws on the experience of certain other international institutions and regimes (not exclusively confined to environmental issues) in coordinating their activities. The paper does not seek to elaborate fully the synergies and gaps that exist between the Convention and other agreements and processes. This has been done more fully in relation to particular issues before the COP (see, for example, UNEP/CBD/COP/3/14, UNEP/CBD/COP/3/16, and UNEP/CBD/COP/3/23).

## **1.3 Aspects and Benefits of Coordination**

4. Two principal concerns regarding institutional capacity support cooperation between relevant conventions: the need to make implementation mutually supportive, and the need to avoid the unnecessary, costly duplication of activities on the part of the Parties and of the organs of the Convention. These concerns operate in two arenas. They operate in relation to policy development, where substantive policies and measures adopted by different conventions should not be inconsistent, and they operate in relation to programmatic support. The latter includes scientific and technical resources that inform both international policies and national policies and action, and operational assistance for national implementation. A more effective and efficient regime for the conservation and sustainable use of biological diversity rests on synergy among relevant organisations. Coordination can allow for the exercise of competence on the basis of the comparative advantage of institutions. Moreover, coordination at the international level is likely to enhance the coordination of policies at the national and regional levels, which will be essential to the achievement of the objectives of the Convention.

5. Effective coordination may require action both within and outside of the Convention□ institutions and procedures. On the one hand, the Convention needs to ensure that its appropriate bodies pursue cooperation, and, on the other hand, the appropriate mechanisms for cooperating with other relevant conventions, institutions and bodies need to be developed. The COP may wish to consider in each case which organ of the Convention is appropriate to carry out specific cooperative activities. Cooperation in relation to policy-making will require action at the intergovernmental (i.e., the COP) level, whereas cooperation in relation to scientific, technical, research and operational activities might be carried out by subsidiary bodies or at the secretariat level.

6. As indicated in UNEP/CBD/COP/2/inf.2, to achieve the objectives of the Convention cooperation and coordination is needed within a wide range of conventions, institutions and bodies. These extend beyond the traditional biodiversity-related conventions that are concerned, for example, with the conservation of terrestrial and marine species and habitats, to conventions addressing specific activities such as pollution control and to institutions concerned with international trade and finance, and with intellectual property rights. Different forms of cooperation are likely to be appropriate for different conventions and institutions. Given the nature of the Convention, the COP may also wish to consider the need for adopting an ecosystem approach to institutional cooperation. The conservation and sustainable use of biological diversity is likely to require institutional responses that recognise the interdependence of ecological functions. In decision II/8, adopted at its second meeting, the COP reaffirmed that the ecosystem approach should be the primary framework of action to be taken under the Convention. Such an approach may involve increased emphasis being given to action and cooperation at the regional level, for example through relevant regional conventions and bodies.

7. The COP may wish to bear in mind a number of considerations in its deliberations on modalities for cooperation with other biodiversity-related conventions, institutions and processes. Among the factors that may influence the feasibility and efficacy of particular cooperation mechanisms are that:

- (a) while cooperation between conventions and institutions working on related issues can be cost effective, cooperation mechanisms can impose their own transaction costs. For example, effective co-representation at the meetings of other conventions and institutions by the Secretariat requires a significant time commitment of Secretariat staff;
- (b) a distinction may need to be made between cooperation with biodiversity-related convention bodies and cooperation with other intergovernmental agencies. Agencies may have broader or more flexible mandates than convention bodies in relation to programmatic work, whereas convention bodies may require specific authorisations for certain activities; and
- (c) particular incentives or disincentives may exist to promote or discourage cooperation. Incentives for cooperation might include, for example, the availability of financial resources and the opportunity to access information through information exchange or sharing mechanisms.

#### **1.4 Role of the Convention as an Integrative Instrument in the Conservation and Sustainable Use of Biological Diversity**

8. Agenda 21 emphasises the need to promote the coordination of existing efforts. Chapter 38 includes the objectives "to strengthen cooperation and coordination on environment and development in the United Nations system" (paragraph 38.8.c) and to "ensure that any new institutional arrangements would support revitalisation, clear division of responsibilities and the avoidance of duplication in the United Nations system and depend to the maximum extent possible upon existing resources" (paragraph 38.7.i). Institutional arrangements for coordination in the implementation of Agenda 21 were subsequently established in the form of the Commission on Sustainable Development (CSD) and the Inter-Agency Committee on Sustainable Development.

9. The decisions of the CSD, the body established to follow up implementation of Agenda 21, provide a political mandate for a pivotal coordination role for the Convention. At its third session, in 1995, the CSD urged states to sign, ratify, accede to and implement the Convention, the United Nations Framework Convention on Climate Change and the United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, particularly in Africa, making these Conventions the principal instruments for advancing international cooperation and practical action in their respective field. The CSD also agreed to look into the relationship between the work under these Conventions and on-going work on sustainable development in other related processes in the follow-up to the United Nations Conference on Environment and Development. The CSD also encouraged coordination and cooperation with relevant global and regional agreements, and also called on, *inter alia*, multilateral organisations and other intergovernmental organisations to cooperate with the Convention and with governments in developing coordinating mechanisms based on national plans and programmes in accordance with the provisions of the Convention so as to ensure the effective implementation of the Convention and other related agreements.

10. With regard to the substance of cooperation, it is clear that while a number of other biodiversity-related conventions are in place, the Convention adds new dimensions to the promotion of conservation and sustainable use. Three important aspects of these new dimensions are the Convention's ecosystem approach, its emphasis on sustainable development, and its provisions on genetic resources. It has also been noted that the Convention interacts with and may be reinforced by other conventions in a number of respects, including increased knowledge and multidisciplinary analysis, the ecosystem approach to problems, sector-specific solutions, and technical and financial support.<sup>1</sup>

11. In its ecosystem approach and with regard to a number of other important principles, including the precautionary approach, the Convention can provide a measure for activities under related conventions. If effective coordination is achieved, there may also be scope for the mechanisms established under the Convention, and in particular the financial mechanism, to support national activities designed to implement complementary conventions, provided that these activities are consistent with the objectives and approach of the Convention and the guidance given by the COP to the institutional structure operating the financial mechanism.

12. However, the Convention also imposes a certain limitation upon the requirement to cooperate, by providing for the Convention to affect rights and obligations under other agreements in certain circumstances. Article 22(1) provides that the provisions of the Convention shall not affect the rights and obligations of the Parties deriving from any existing international agreements, except where the exercise of those rights and obligations would cause a serious damage or threat to biological diversity. In relation to the marine environment, however, the Parties are obliged to implement the Convention consistently with the rights and obligations of

states under the law of the sea (Article 22(2)).

## **2. EXAMPLES OF COOPERATIVE ACTIVITIES**

13. The coordination of the activities of international institutions is an endemic problem, most obviously manifested in the United Nations "family" of organisations, a number of which have overlapping mandates. The institutional responses that have been adopted involve action both at the intergovernmental, policy-making level, at the scientific and/or technical level, and at the operational and administrative (secretariat) level.

14. This section reviews a number of examples of activities or arrangements aimed at coordination between or integration of international institutions and regimes.<sup>2</sup> The examples drawn upon are not intended to indicate particular actions that the Convention should take, but rather to provide some ideas on ways in which coordination of and cooperation between institutionally distinct bodies with overlapping mandates might be achieved. As will be apparent from document UNEP/CBD/COP/3/29, a number of these types of activities have already been initiated by the Convention with a view to enhancing cooperation and coordination.

### **2.1 Information Exchange, Observer Participation and Reporting**

15. Mutual consultation and information exchange is crucial in coordinating the activities of diverse institutions, and is common in the practice of international organisations. This may include, for example, regular meetings, and the exchange of documents, work plans and reports, as well as exchange of personnel by way of secondment. It may also include the integration of databases and information networks.

16. As noted in document UNEP/CBD/COP/3/29, the Convention has already begun to explore procedures for information-exchange with related conventions. Memoranda of Cooperation have been signed by the Executive Secretary with:

- (a) the Bureau of the Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar Convention);
- (b) the Secretariat of the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES); and
- (c) the Secretariat of the Convention on the Conservation of Migratory Species of Wild Animals (CMS).

The Memoranda of Cooperation require the secretariats to institute procedures for regular exchanges of information in their respective fields of action. They also seek, in particular, the exchange of databases and information on biodiversity. The Memoranda of Cooperation also provide for cooperation in preparing relevant documents under each convention.

17. One method of facilitating coordination through information exchange is through linked or integrated databases. The Secretary General's 1995 report to the General Assembly on the law of the sea<sup>3</sup> notes that pursuant to the General Assembly's call in Resolution 49/28 for the development of a centralised system with integrated databases for providing coordinated information and advice, *inter alia*, on legislation and marine policy, the Division of Ocean Affairs and the Law of the Sea (DOALOS) has established contacts with relevant organisations and has established an initial working relationship with the FAO. Steps have also been taken to advance future cooperation, including the electronic transmission of data between DOALOS and FAO, with a view to acquiring experience for the establishment of similar links with other agencies and organisations.

18. Within the context of the CSD, at its most recent meeting the Inter-Agency Committee on Sustainable Development (IACSD) endorsed a proposal that the streamlining of requests for national reports should, at this stage, be pursued by seeking a division of labour between the content of reporting to the CSD and reporting to conventions and agencies. In this way, country profiles now being prepared for the CSD would become a first-access document containing general institutional and macro-economic information with cross-references and/or linkages to other databases holding more specific information collected by the conventions and organisations of the UN system. Countries would be encouraged to indicate to whom they had already reported certain information. Such a process could eventually require common core data sets, computerisation of the country profiles, and mutually accessible databases. After further consultations a paper setting forth such proposals is to be prepared for discussion by the IACSD for eventual presentation to the fifth session of the CSD.

19. Within the World Trade Organisation (WTO) Committee on Trade and Environment (CTE), a proposal has been made to develop cooperation mechanisms between the secretariats of certain environmental conventions and the WTO secretariat to deal with the exchange of certain information.

#### 2.1.1 Focal points for coordination between secretariats

20. The sharing of information between secretariats may be enhanced and expedited if there is a designated person responsible for coordinating with other institutions. For example, in order to coordinate information from other organisations on the perceived implications for them of the entry into force of UNCLOS, DOALOS has established a list of focal points for law of the sea matters in those organisations.

21. The CSD also invites relevant intergovernmental organisations and specialised agencies, including financial institutions, to designate representatives, to advise and assist it, and also to designate personnel to serve as focal points for the members and secretariat of the Commission between sessions.

#### 2.1.2 Observer participation in the meetings of other organisations

23. The participation of representatives of one organisation as observers at meetings of another can enhance mutual understanding and may also allow for more formal exchanges of views. It is relatively common to find provisions in the biodiversity-related conventions allowing for the participation as observers of representatives of other organisations. Article 23(5) of the Convention allows, *inter alia*, for the UN, its specialised agencies and the International Atomic Energy Agency to be represented as observers at meetings of the COP. Other governmental or non-governmental bodies or agencies, which have informed the Secretariat of their wish to be represented as an observer at a meeting of the COP, may be admitted unless at least one third of the Parties present object. The admission and participation of observers is subject to the rules of procedure. Similar provisions are contained in CITES, the CMS and the UN Framework Convention on Climate Change. The Rules

of Procedure of the Conference of the Contracting Parties to the Ramsar Convention provide that any body or agency, national or international, whether governmental or non-governmental, that is qualified in fields relating to the conservation or sustainable use of wetlands, and that has informed the Bureau of its wish to be represented, may be represented by observers at the Conference of the Contracting Parties, unless one third of the Contracting Parties present object. However, the Convention concerning the Protection of the World Cultural and Natural Heritage (World Heritage Convention) is somewhat different. There is no general right for observers to attend the meetings of the World Heritage Committee under the World Heritage Convention.

22. The Memoranda of Cooperation provide for the development of some form of participation by the secretariats and, in some cases, other organs of each convention, as observers at meetings of the other. As noted above, Article 23(5) of the Convention, and Rules 6 and 7 of the rules of procedure of the Convention, provide for the participation of observers at meetings of the COP and of subsidiary bodies of the Convention. A number of representatives of related conventions and institutions have participated in the meetings of the COP as observers and have presented statements or informal reports. In addition, as noted in document UNEP/CBD/COP/3/29, representatives of the Convention Secretariat have attended a number of meetings of relevant conventions and institutions.

23. A number of intergovernmental organisations participate as observers in the meetings of the World Trade Organisation Committee on Trade and Environment (CTE). The CTE is discussing a number of issues relevant to the Convention, including the transfer of environmentally sound technology, the TRIPS Agreement, eco-labelling, and the relationship between multilateral environmental agreements and the WTO. At its first meeting, in February 1995, the CTE granted observer status to the secretariats of, *inter alia*, UNEP, the FAO and the CSD on a meeting-by-meeting basis pending agreement by the General Council of the WTO on the conditions and criteria for observer status for intergovernmental organisations in the WTO. The General Council guidelines on observer status provide that the purpose of observer status for international intergovernmental organisations in the WTO is to enable them to follow discussions on matters of direct interest. Requests for observer status are therefore considered from organisations that have competence and a direct interest in trade policy matters. In addition to organisations with observer status, other organisations may be specifically invited to attend meetings of the WTO subsidiary bodies. Invitations may also be extended, as appropriate and on a case-by-case basis, to specific organisations to follow particular issues within a body in an observer capacity. Observers may be invited to speak at meetings, but this does not include the right to circulate papers or make proposals, unless specifically invited to do so.

24. However, it should be borne in mind that the demands of effective co-representation need to be matched by sufficient resources. At present, the availability of human resources within the Secretariat constitutes a limitation on the ability of the Secretariat to represent the Convention at the enormous number of relevant meetings. If the representation function remains the exclusive preserve of the Secretariat, it should be recognised that comprehensive representation and cooperation with other meetings will only occur with a substantial increase in the staffing levels of the Secretariat. The COP may wish to consider whether other officers of the Convention might represent the Convention in certain fora. For example, as noted in UNEP/CBD/COP/3/29, the Chairman of the SBSTTA has represented the Convention at a meeting of the Global Environment Facility Scientific and Technical Advisory Panel.

#### 2.1.3 Reporting by organisations

25. An organisation may provide reports on its work to another. This may facilitate the identification of

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areas where organisations might cooperate and bring to light areas of potential conflict. Reports may include summaries of information from national reports submitted to the organisation by parties or members.

26. In its capacity as the entity operating the financial mechanism under the Convention on an interim basis, the Global Environment Facility (GEF) reports to the COP on its activities in support of the Convention. Similar reports are submitted by the GEF to the Conference of the Parties of the United Nations Framework Convention on Climate Change.

27. The Commission on Sustainable Development's review function is to be realised partly through considering reports from the conferences of parties of the various environmental agreements on the progress made in implementation. The CSD requested the Economic and Social Council to invite specific reports on activities to follow up the UN Conference on Environment and Development (UNCED) from relevant organisations of the UN system, including international financial institutions and the Global Environment Facility. The CSD also requested the Secretary-General to prepare annually a consolidated, analytical report synthesising information related to the UN system, outlining gaps and assessing progress in implementing Agenda 21. It has also invited reports from international regional and sub-regional intergovernmental organisations outside the UN system.<sup>4</sup>

28. UN General Assembly Resolution 49/28 requires the Secretary General of the UN to prepare an annual comprehensive report for the General Assembly on "developments relating to the law of the sea". In practice, annual reports have been submitted to the General Assembly since 1983. Although these reports only collate information on relevant activities by other organisations and do not reflect a formal coordination function, the organisation of the report can assist governments in identifying links among the various developments.

## **2.2 Planning, Delimitation, Joint Activities and Delegation**

29. The medium- or long-term planning of work by institutions facilitates coordination since it allows institutions to compare work programmes in order more clearly to identify areas of potential overlap or cooperation, so that efforts might be made, where appropriate, to apportion responsibilities, to integrate work programmes or to develop specific joint activities. The Jakarta Mandate on marine and coastal biodiversity envisages these types of cooperation. Joint activities, such as joint programmes or the creation of joint bodies, generally derive from work programme or other decisions approved by the governing body of a convention or institution. Where they involve financial or other specific commitments, they may be subject to a memorandum of understanding between the organisations involved, setting out the respective responsibilities of the parties.



### 2.2.1 The delimitation of competence by organs and organisations

30. Where institutions have overlapping competencies, there may be the potential for them to agree to a delimitation of tasks. However, strict delimitation may not be desirable since it may, in itself, lead to problems of coordination. In practice, the delimitation of competence may establish some *de facto* priority for one organisation in a certain area, by using a "lead agency" approach, for example.

31. For example, Article 68 of the World Trade Organisation (WTO) Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) (see below), requires, *inter alia*, that, in consultation with the WIPO, the Council for Trade-Related Aspects of Intellectual Property Rights seek to establish appropriate arrangements for cooperating with bodies of the WIPO. On 1 January 1996, an agreement between the WIPO and the World Trade Organisation entered into force. The agreement covers several areas of cooperation between the WIPO and the WTO and aims to avoid duplication in some areas, such as notification of national laws.

32. The inter-agency agreement on "Principles of Cooperation among the Implementing Agencies" concluded between UNDP, UNEP and the World Bank as part of the establishment of the Global Environment Facility identifies a "primary role" for each agency in identifying, designing and implementing particular categories of projects. In doing so, the Agreement seeks to describe an "efficient division of labour that maximises the synergy among them and recognises their terms of reference and comparative advantages".<sup>5</sup>

### 2.2.2 The organisation of joint workshops and meetings

33. Joint workshops and jointly-convened meetings may again serve to enhance the understanding of areas of overlap and synergy between the work of separate institutions.

34. For example, the International Bureau of World Intellectual Property Organisation (WIPO) has participated in meetings related to environmental matters. In 1990, a joint WIPO/UNEP meeting was held on the role of industrial property in the transfer of technology that reduces the depletion of the ozone layer. In 1991, the International Bureau and the UNCED Secretariat held a meeting of Experts on the Acquisition by Developing Countries of Environment Relevant Technology Protected by Intellectual Property.

### 2.2.3 Joint programmes and projects

35. Institutions may establish joint programmes in particular fields. In the context of the Convention, relevant national activities under such joint projects might be eligible for financial support, for example, through the GEF. At the UN inter-agency level, the IACSD has urged more joint-programming exercises to make the best use of available resources.

36. UNEP and the FAO have for some time cooperated in the operation of a prior-informed-consent procedure in relation to certain chemicals and pesticides in international trade. In 1994 and 1995, respectively, the governing bodies of the FAO and UNEP adopted decisions to convene negotiations towards a legally binding international instrument on prior informed consent.

37. The Conference of the Contracting Parties of the Ramsar Convention, in its 1996 Strategic Plan, urged the joint preparation and submission of project proposals with other conventions and organisations to potential funding agencies, as well as strengthened cooperation and synergy with the Convention, in particular regarding the inclusion of wetland concerns in national biodiversity strategies and the planning and execution of projects affecting wetlands.

#### 2.2.4 The creation of joint subsidiary bodies

38. The creation of joint subsidiary bodies with advisory or delegated executive functions may facilitate the rationalisation of activities in certain areas. Joint subsidiary bodies represent a more formal and long-term option for the coordination of activities in a particular area. They may relate to policy development or to programmatic support (e.g., expert and/or scientific cooperation or operational and/or technical support).

39. For example, the UN Conference on Trade and Development and the WTO (and, previously, the General Agreement on Tariffs and Trade) cooperate in the operation of the International Trade Centre (ITC), a joint subsidiary organ of the WTO and the UN (acting through UNCTAD). ITC is the focal point in the United Nations system for technical cooperation with developing countries in trade promotion. The ITC itself coordinates its activities with a number of other organisations, such as the FAO, UNIDO, UNDP and regional development banks. The mandates of the WTO and of UNCTAD provide a number of areas of overlap. For example, included in UNCTAD's mandate is the requirement "to review and facilitate coordination of activities of other institutions within the UN system in the field of international trade and related problems of economic development". In January and June 1996, high-level meetings were held aimed at enhancing cooperation between the WTO and UNCTAD secretariats.

40. The FAO Constitution contains a specific provision for the establishment of joint commissions with other organisations. For example, the Codex Alimentarius Commission was established by the FAO and the WHO to implement the joint FAO/WHO Food Standards Program. In 1961, the FAO and the UN established the World Food Programme. The agreement was concluded in parallel resolutions of the general congresses of the organisations. The World Food Programme does not have independent legal personality, but has some autonomy. Its Executive Director acts by virtue of a delegation of authority from the Secretary General of the UN and the Director General of FAO.<sup>6</sup>

41. In 1994, the Global Environment Facility was restructured and established through the combined efforts of participating states, UNDP, UNEP and the World Bank (the GEF "Implementing Agencies"). The GEF Instrument provides for a unique institutional relationship that: depends upon a Trust Fund established by the World Bank; draws upon the capacity and expertise of three Implementing Agencies; operates under the guidance of two separate treaties; and is directed by an independent Council of participating states. As such, the GEF provides a potential mechanism for coordinating the activities of states and international agencies on crosscutting and overlapping issues.

42. Conventions and institutions may also share organs concerned with scientific and technical advice. For example, the Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection (GESAMP) is an advisory body of specialised, independent experts nominated by its Sponsoring Agencies (IMO, FAO, UNESCO, WMO, IAEA, UN and UNEP). Its principal task is to provide scientific advice on the prevention, reduction and control of the degradation of the marine environment to its Sponsoring Agencies. In 1993, GESAMP's role was expanded by agreement of its Sponsoring Agencies with the intention of further

coordinating and streamlining similar activities within the UN system. Its mandate no better reflects an ecosystemic approach and is to cover all scientific aspects of the degradation of the marine environment.

43. In 1987, UNEP and WMO established the Intergovernmental Panel on Climate Change (IPCC). IPCC is an independent, multidisciplinary body of experts, appointed by governments but serving in their individual capacities. The secretariat of IPCC is sponsored jointly by UNEP and WMO and its Working Groups draw on support from national and regional centres of expertise. IPCC assessment reports have provided scientific input into international policy-making under the UN Framework Convention on Climate Change.

#### 2.2.5 The delegation of tasks and/or lead partners

44. Some organisations or conventions delegate particular tasks related to their work programme to other intergovernmental or non-governmental institutions. For example, the Consultative Parties to the 1959 Antarctic Treaty have developed a close working relationship with the Scientific Committee on Antarctic Research (SCAR), albeit that no formal role for SCAR is provided in the Antarctic Treaty itself. SCAR was established by the International Council of Scientific Unions. It has provided scientific assistance to the Antarctic Treaty Consultative parties on a number of issues. The position of SCAR has been formalised in certain other treaties relating to Antarctica. For example, the Convention for the Conservation of Antarctic Seals (Seals Convention), in Article 5, invites SCAR, *inter alia*, to assess information received from the Contracting Parties to the Convention, to recommend statistical and biological data to be collected by sealing expeditions in the area covered by the convention, and to report when the harvest of any species of seal in the area covered by the convention is having a significantly harmful effect on the total stocks of such species or on the ecological system in any particular locality. The Seals Convention also provides that SCAR may, if necessary, seek the technical assistance of the FAO in making its assessments. The 1991 Protocol on Environmental Protection to the 1959 Antarctic Treaty provides for the establishment of a Committee for Environmental Protection, to which the President of SCAR will be invited to participate as observer (Article 11). In carrying out its functions, the Committee for Environmental Protection is to consult with SCAR, among others.

45. The terms of reference for the Intergovernmental Panel on Forests require the IPF to draw upon the resources and technical expertise of relevant organisations, including the FAO, UNEP, UNDP, the World Bank, the International Tropical Timber Organisation, the Secretariat of the Convention on Biological Diversity, and other relevant organisations within and outside the UN system, as well as the secretariats of relevant conventions and appropriate contributions from non-governmental organisations. With regard to secretariat support for the IPF, its secretariat is to relay tasks from the IPF to appropriate organisations and develop and maintain an effective communication system between the IPF and other organisations. At its first meeting, the IPF noted with satisfaction the establishment of collaborative inter-agency arrangements.

46. The Ramsar Convention delegates the management of its database to Wetlands International. Similarly, the database of CITES is managed on behalf of CITES by the World Conservation Monitoring Centre.

47. In relation to the Convention, the Global Environment Facility of the World Bank, UNDP and UNEP have been delegated the task of operating the financial mechanism under Article 21 of the Convention.

48. The activities of the Intergovernmental Oceanographic Commission of UNESCO (IOC) in relation to decision II/10 of the COP on marine and coastal biological diversity, described in paragraphs [ ] of document UNEP/CBD/COP/3/29 (and in document UNEP/CBD/COP/3/inf. 22), may provide a possible model for contributions by other institutions to specific tasks on the work programme of the Convention.

## 2.3 Coordinating Bodies

49. In some cases, a distinct body, at the political or administrative level, has been assigned the task of coordination.

### 2.3.1 Policy coordination

50. The CSD is a significant recent example in relation to cooperation and the rationalisation of intergovernmental decision-making capacity. The CSD's coordination role is political in that it can make recommendations in the hope that governments will follow them in the sectoral fora involved. It can also promote administrative (inter-agency) coordination through the IACSD (see below). The role of UNEP in coordination is also emphasised in Agenda 21. UNEP itself was established after the 1972 Stockholm Conference on the Human Environment to act, *inter alia*, as a focal point for environmental action and to provide general policy guidance for the direction and coordination of environmental programmes in the UN system.

### 2.3.2 Administrative and/or operational coordination

51. While the UN system is highly decentralised, the administrative coordination of the policies of the different UN agencies is carried out through the Administrative Committee on Coordination (ACC). The ACC is made up of the Secretary General of the UN and the executive heads of the specialised agencies. In addition, the heads of other UN bodies usually attend the meetings of the ACC, providing a high-level point of contact for the various secretariats. The Inter-Agency Committee on Sustainable Development (IACSD) has been created as a subsidiary to the ACC specifically to focus on coordinating policies relating to sustainable development. IACSD is made up of senior-level officials from nine institutions or programmes, including UNEP, UNDP, FAO, UNESCO and the World Bank. Other UN agencies and intergovernmental institutions are able to attend. The Secretariat of the Convention was invited to attend the last meeting of the IACSD, held in July 1996.

52. The Principles of Cooperation among the Implementing Agencies of the GEF provide that in order to facilitate the collaboration between the agencies and ensure the effective development and execution of the GEF joint-work programme, an on-going inter-agency process is essential. Such a process is embodied in an inter-agency committee, to function on two levels. First, the Principles provide for an institutionalised, high-level forum focusing on strategic operational issues, common direction and broad guidance for the collaborative process. This process consists of the heads of Implementing Agencies or their representatives, convened by the Chief Executive Officer of the Facility at least once a year. Second, there is a staff-level inter-agency group that is to collaborate with the GEF Secretariat in the preparation of a joint-work programme, focusing on all pertinent issues concerning the operations of the GEF, its projects, communications and outreach. This group is chaired by the GEF Secretariat. Other *ad hoc* inter-agency groups may be established as deemed necessary.

### 2.3.3 "Umbrella" organisations or conventions

53. "Umbrella" organisations or conventions concerned with a specific field of activity may advance cooperation.

54. An important example of this approach is the WTO, the "common institutional framework" established for a large set of agreements and associated legal instruments at the end of the GATT Uruguay Round negotiations. The WTO consists of, *inter alia*, a Ministerial Conference, to meet every two years, a General Council, and a Secretariat. In addition, the General Council is to establish three specific councils to oversee the functioning of certain multilateral trade agreements. Each of these councils may establish subsidiary bodies as required. A number of specific bodies are also established under the individual multilateral and plurilateral trade agreements. A common dispute-resolution procedure is established for all the agreements.

55. The World Intellectual Property Organisation (WIPO) represents an example of a high degree of institutional integration. The WIPO is a Specialised Agency of the United Nations. It was established by treaty and provides a common administrative structure for a number of intellectual property "unions" established under various international agreements. The institutional components of the WIPO are the Conference, the General Assembly, and the Coordination Committee. In addition, the individual Unions have their own assemblies. The International Bureau of Intellectual Property, the secretariat of the WIPO, provides secretariat services to all the Unions.

56. The United Nations Convention on the Law of the Sea (UNCLOS) constitutes the framework for a large number of global and regional treaties that deal with pollution of the marine environment and the conservation and sustainable use of the living resources of the seas. The basic objective of UNCLOS is to establish "legal order for the seas and oceans which will facilitate international communication, and will promote the peaceful uses of the seas and oceans, the equitable and efficient utilisation of their resources, the conservation of their living resources, and the study, protection and preservation of the marine environment". UNCLOS makes a number of express references to regional rules, regional programmes and regional cooperation. UNCLOS also draws on rules and standards adopted under other conventions or institutions through references to generally accepted international rules and standards established through competent international organisations, in relation, for example, to the protection of the marine environment from pollution.

57. The 1992 Convention for the Protection of the Marine Environment of the North-east Atlantic represents an example of the integration of existing treaty regimes. When it enters into force, the OSPAR Convention will replace the 1972 Oslo and Paris Conventions on dumping at sea and pollution by land-based sources, respectively.

58. The International Maritime Organisation has served as an umbrella for the development and implementation of a number of international conventions, including the 1973/78 MARPOL Convention, the 1969 Convention on Civil Liability for Oil Pollution Damage, and the 1969 Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage. IMO has also developed a number of sets of standards and guidelines. Some IMO conventions and standards are assumed to represent the "international rules and standards" referred to in certain provisions of UNCLOS. The IMO secretariat provides secretariat services for a number of conventions that have been developed under its auspices, and works on their development and implementation. In addition, the parties to the 1972 London Convention on the Prevention of

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Marine Pollution by Dumping also designated the IMO as its secretariat.

59. Other treaty systems exist that operate in effect as a framework for other agreements. For example, the Antarctic Treaty system consists of a number of agreements interlinked with the 1959 Antarctic Treaty. Related agreements include the Convention on the Conservation of Antarctic Seals, the Convention on the Conservation of Antarctic Marine Living Resources, and the Protocol on Environmental Protection to the Antarctic Treaty. The Regional Seas agreements adopted under the UNEP regional seas programme provide a framework for the adoption of regional protocols on specific issues, such as dumping at sea. The CMS provides for the conclusion of Range State Agreements in relation to specific migratory species and provides guidelines as to the content of these Agreements.

60. Again, the CSD can also be seen as a type of "umbrella" institution responsible for the overall coordination and review of efforts to implement Agenda 21.

## **2.4 Facilitating the Coordination of Policy and Law at the National Level**

61. The positive effects of coordinating policy and action at the international level may be undermined if there is a lack of coordination in relation to policy-making at the national level. The policies and activities of different international institutions may only be expected to conform when the members adopt consistent policies across institutions. Where the relevant spheres of activity are diverse, as is the case with biological diversity, the establishment of appropriate forms of coordination at the national level is particularly helpful.

62. UNDP has in place a system of Resident Coordinators to assist in coordination at the national level of the activities of international organisations providing development aid.

63. The establishment of common focal points for related conventions or agencies at the national level can assist in national coordination. The Memoranda of Cooperation signed by the Executive Secretary with certain biodiversity-related conventions provides for the conventions to encourage coordination between designated focal points within parties where separate focal points exist.

## **3. OPTIONS FOR ACTIVITIES AND INSTITUTIONAL ARRANGEMENTS TO ENHANCE COORDINATION**

64. The importance of effective cooperation is already evident from the number of cooperative activities undertaken in the last year (see document UNEP/CBD/COP/3/29). Effective coordination with biodiversity-related conventions is likely to require the involvement of all organs established under the Convention, with appropriate activities undertaken by the COP, the SBSTTA and the Secretariat. A large amount of administrative, operational and technical cooperation, for example, with regard to sharing information and preparing for the harmonisation of work programmes, might be carried out at the secretariat level. However, policy decisions, such as in relation to delimitations of competence, require agreement at the intergovernmental (COP) level before being implemented, if appropriate, by the Secretariat.

65. The conclusions offered in UNEP/CBD/COP/2/inf.2 suggested that cooperation with other conventions should be addressed on a step-by-step basis, over the long term and should commence with specific, practical activities. Longer-term links could develop out of these specific activities. Some specific activities for the near term are suggested in document UNEP/CBD/COP/3/29. In addition, it is important that cooperation with other

conventions and institutions is developed in such a manner as to assist in the implementation of the work programme of the Convention. Mindful of the overall review and consideration of a longer-term programme of work to be undertaken at its fourth meeting, the COP may wish to consider requesting the Executive Secretary to explore further, in collaboration with the secretariats of relevant conventions and institutions, any or all of the following modalities for enhancing cooperation. The Executive Secretary might then report to the COP with recommendations for cooperative activities with specific conventions and/or institutions, if appropriate, in relation to specific items on the work programme of the Convention.

66. In considering the menu of options set out below, the COP may wish to bear in mind that different forms of cooperation may be appropriate for different conventions or institutions, and thus some flexibility is likely to be required.

### **3.1 Information and Consultation**

69. The Secretariat might further investigate the possibility of establishing integrated information-management structures and databases with relevant conventions and institutions. Such a system might facilitate the Parties' access to information relevant to the implementation of the Convention, and might also provide a framework for harmonising reporting requirements under the related conventions (including the structure and timing of reports). In collaboration with other conventions and institutions, including the CSD, the Secretariat might begin to investigate the feasibility of and modalities for an integrated system, including exploring modes of submitting national reports within such a system. The need for such cooperation has been recognised in many papers and other items of the COP's agenda. However, the COP might note that although a more centralised system of data management would be useful, the degree of management required for such a system is likely to be beyond the envisaged capacity of the CHM (Clearing-House Mechanism) and the Secretariat. The COP may therefore wish to consider assessing both the extent to which this task might be fulfilled by some other organisation that has the requisite capacity, and the nature of the institution that might be used to provide such support, such as whether it should be a public or a private institution.

70. The COP may wish to consider inviting observers from the relevant conventions and institutions to present regular reports to the COP and/or to the SBSTTA on their activities relevant to biological diversity. The COP may wish to request that the Secretariat draw to the attention of relevant conventions and institutions decisions of the COP of particular relevance to their area of responsibility.

71. The Secretariat might seek input and/or reports from related conventions, in readiness for the fourth meeting of the COP, at which the medium-term programme of work of the Convention will be reviewed.

72. As the sole biodiversity-related convention with formal links to the GEF, the Convention might provide a conduit for ideas for policies and programmes that support the Convention's objectives but that have been raised by the bodies of other biodiversity-related regimes. The COP may wish to request the Secretariat to explore with the secretariats of other treaties relevant areas of treaty implementation at the national level that are in need of financial support.

73. The Secretariat might explore the possibility of making documentation from other fora available through the CHM. For example, the GEF and the WTO publish information on the Internet. This could be coordinated and relevant information made accessible through the Convention's CHM.

### **3.2 Participation in the Work of Other Conventions and Institutions**

74. The COP may wish to ask the Secretariat to explore concrete mechanisms for consulting and gaining input to the Convention from other relevant international and regional processes. This might include, for example, relevant discussions in the WTO, including those concerning Article 27 of the TRIPS Agreement. The COP may wish to request the Secretariat to prepare such inputs and to submit them to the COP for approval.

### **3.3 Planning, Delimitation, Joint Activities And Delegation**

75. The COP may wish to request the Secretariat to produce, in consultation with other relevant secretariats, a "matrix" of the work programmes of the various relevant conventions and institutions, with the aim of identifying common areas of work and possible areas of delimitation or delegation of tasks. This exercise might also identify which analytical and operational support functions may serve more than one convention. At its second meeting, in Annex II to Recommendation II/11, the SBSTTA suggested that in order for SBSTTA to manage its workload effectively and to assist coordination of work, it may be useful to establish a global calendar of all relevant work being undertaken by different bodies of the United Nations and by other international conventions and institutions in the medium-term, to be regularly updated by the Secretariat.

76. The COP may wish to request the Secretariat to explore and suggest possible areas of joint work with specific biodiversity-related conventions for consideration at the fourth meeting of the COP.

77. The Secretariat could explore areas in which scientific and technical cooperation between the SBSTTA and the scientific and technical bodies of other conventions and institutions might be useful. The Secretariat could provide recommendations in this regard for the consideration, in the first instance, of the SBSTTA. The Secretariat might also explore, in collaboration with other conventions and institutions, the desirability of establishing, where appropriate, joint bodies, for example, experts' groups crossing institutional lines to share and disseminate information, or to develop joint scientific efforts. This might follow, for example, the model of GESAMP, which provides scientific advice concerning the prevention, reduction and control of the degradation of the marine environment to its Sponsoring Agencies. The COP may wish to consider whether the Secretariat should, in consultation with other secretariats, identify areas



where such joint bodies may be useful and make recommendations to the COP or to SBSTTA as to their establishment. As an example, one such joint group might consider the conservation and sustainable use of marine and coastal biological diversity.

78. In its substantive decisions, the COP may wish to consider inviting other relevant institutions or conventions to carry out work related to the work programme of the Convention. Such contributions might be coordinated by the Secretariat, with reports on work presented back to the COP. In relation to other conventions and institutions, such an approach might be manifested in a “lead partner” approach, whereby the Convention could, in relation to a specific issue, develop partnership arrangements with another convention or institution operating in the relevant field. Such an approach would assist in avoiding the duplication of work. For example, in relation to work on alien species under Article 8(h), the COP might wish to invite an institution such as the Scientific Committee on Problems of the Environment (SCOPE) to carry out further work and report back to the COP. SCOPE, together with other programme partners, is developing a work programme to produce a global strategy for dealing with invasive species. Similarly, an institution such as the IOC might be specifically invited to carry out specific work in relation to the COP’s work on marine and coastal biodiversity.

### **3.4 Coordination Processes**

79. Modalities might be explored for promoting high-level coordination between the Convention and the biodiversity-related conventions with which Memoranda of Cooperation are signed, to focus upon longer-term objectives and synergies.

80. The COP may wish to request a regular overview report on activities under other institutions and/or conventions relevant to the implementation of the Convention (along the lines of the report submitted by the Secretary General of the UN to the General Assembly in relation to the law of the sea). The compilation of such a report might be facilitated by the information-exchange mechanisms discussed in paragraphs 69 and 70 above. The COP may consider that such a consolidated report might assist it in identifying areas where further efforts are required.

81. The COP may wish to request the Secretariat to explore the possibility of establishing inter-agency coordination mechanisms, entailing regular communication, in relation to specific items on the work programme of the COP. This possibility was raised by the Executive Secretary in document UNEP/CBD/SBSTTA/2/14, prepared for the second meeting of the SBSTTA in relation to the implementation of the Jakarta Mandate on marine and coastal biological diversity.

### **3.5 Facilitation Of National Level Coordination**

82. In addition to exploring the harmonisation or streamlining of the national reporting requirements of the various biodiversity-related conventions and institutions, the Secretariat could further explore, in cooperation with conventions and institutions with which Memoranda of Cooperation are signed, mechanisms for coordinating actions taken at the national level, for example through the establishment of common national focal points for biodiversity-related conventions and institutions.

## **Notes**

1. L.A. Kimball, *The Convention on Biological Diversity and its relationships with major related conventions and institutions*, Background Paper for Social Science Research Council Biodiversity Initiative, prepared under the auspices of the Overseas Development Council, in consultation with M. Ben-Eli. July 1996.
2. See H.G. Schermers and N.M. Blokker, *International Institutional Law* (Martinus Nijhoff Publishers 1995). Third Revised Edition, paras. 1691-1800.
3. UN Doc. A/50/713.
4. E/CN.17/1993/3/Add.1. Report of the Commission on Sustainable Development on its First Session (14-25 June 1993). Paras. 13-14.
5. Instrument for the Establishment of the Restructured Global Environment Facility (1994), Annex D: Principles of Cooperation among the Implementing Agencies, para. 9.
6. UN Doc. E/4043.