

Wildlife and Biodiversity Treaties

- **Conventions on Northern Fur Seals (1911), Whales (1946), Migratory Birds (1916)**
- **Washington Convention on the Conservation of Nature and Wild Life Preservation in the Western Hemisphere (1940)**
- **Ramsar Convention on Wetlands (1975) 160 parties; wetlands of international importance**
- **UNESCP World Heritage Convention (1975); natural and cultural heritage**
- **Convention on Biological Diversity (1992) 193 parties: framework convention for conservation of nature;**
- **Cartagena Protocol on Biosafety (2003): control of transboundary movement of genetically modified organisms;**
- **Nagoya Protocol to the Convention on the CBD for Access and Benefit Sharing (2010)**
- **Convention on International Trade in Endangered Species (CITES) (1987): Trade in endangered species (175 parties)**
- **Bonn Convention on the Conservation of Migratory Species (115 parties) (1979)**

Understanding the CBD

- **Framework Convention for biological diversity**
- **Definition of biodiversity, biodiversity resources, genetic resources**
- **In situ v. ex situ conservation**
- **Biodiversity as a commodity**
- **Biotechnology, Access and Benefit Sharing (Nagoya Protocol)**
- **Intellectual property rights**
- **Indigenous peoples and knowledge**
- **Genetically modified organisms (Biosafety protocol)**

Definition of Biological Diversity

Biological diversity" means the **variability** among living organisms from all sources including, *inter alia*, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity **within species, between species and of ecosystems.**

(Article 2)

- The objectives of this Convention, to be pursued in accordance with its relevant provisions, are the **conservation of biological diversity**, the **sustainable use of its components** and the **fair and equitable sharing of the benefits arising out of the utilization of genetic resources**, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies, taking into account all rights over those resources and to technologies, and by appropriate funding.

Article 6: General Measures

Each Contracting Party shall, in accordance with its particular conditions and capabilities:

- (a) **Develop national strategies, plans or programmes** for the conservation and sustainable use of biological diversity ...; and
- (b) **Integrate**, as far as possible and as appropriate, the conservation and sustainable use of biological diversity into relevant sectoral or cross-sectoral plans, programmes and policies.

Article 7: Identify and Monitor biodiversity and impacts on diversity

Article 8: In situ Conservation

- **(a) Establish a system of protected areas or areas;**
- **(b) Develop guidelines for the selection, establishment and management of protected areas; ...**
- **(d) Promote the protection of ecosystems, natural habitats and the maintenance of viable populations of species in natural surroundings;**
- **(f) Rehabilitate and restore degraded ecosystems and promote the recovery of threatened species;**

Article 8 (cont'd)

- (g) Establish or maintain means to regulate, manage or control the risks associated with the use and release of **living modified organisms** resulting from biotechnology which are likely to have adverse environmental impacts that could affect the conservation and sustainable use of biological diversity, taking also into account the risks to human health;
- (h) Prevent the introduction of, control or eradicate those alien species which threaten ecosystems, habitats or species;

Article 8(j): Indigenous Peoples

- (j) Subject to its **national legislation**, respect, preserve and maintain knowledge, innovations and practices of **indigenous and local communities embodying traditional lifestyles** relevant for the conservation and sustainable use of biological diversity and promote their wider application with the **approval** and involvement of the holders of such knowledge, innovations and practices and encourage the **equitable sharing of the benefits** arising from the utilization of such knowledge, innovations and practices;

Art. 15: Access to Genetic Resources

- **1. Recognizing the sovereign rights of States over their natural resources, the authority to determine access to genetic resources rests with the national governments and is subject to national legislation.**
- **2. Each Contracting Party shall endeavour to create conditions to facilitate access to genetic resources for environmentally sound uses by other Contracting Parties and not to impose restrictions that run counter to the objectives of this Convention.**
- **3. Genetic resources are those provided by “countries of origin.”:**

Article 15 (cont'd)

- **4. Access, where granted, shall be on mutually agreed terms.**
- 5. Access to genetic resources shall be subject to prior informed consent...**
- 7. Each Contracting Party shall take legislative, administrative or policy measures, ...with the aim of sharing in a fair and equitable way the results of research and development and the benefits arising from the commercial and other utilization of genetic resources with the Contracting Party providing such resources. Such sharing shall be upon mutually agreed terms.**

See Nagoya Protocol

Article 16: Access to and Transfer of Technology

- **1. Each Contracting Party... undertakes ... to provide and/or facilitate access for and transfer to other Contracting Parties of technologies that are relevant to the conservation and sustainable use of biological diversity or make use of genetic resources and do not cause significant damage to the environment.**
- **2. Promote access to technology on a “fair and equitable basis”**

Article 16 (cont'd)

- **3.** Each Contracting Party shall take legislative, administrative or policy measures, as appropriate, with the aim that Contracting Parties, in particular those that are developing countries, which provide genetic resources are provided access to and transfer of technology which makes use of those resources, on mutually agreed terms, **including technology protected by patents and other intellectual property rights**, where necessary, through the provisions of Articles 20 and 21 and in accordance with international law and consistent with paragraphs 4 and 5 below.

Article 19

- **1. provides for the “effective participation in biotechnological research activities” by those Contracting Parties, especially developing countries, which provide the genetic resources for such research, and where feasible in such Contracting Parties.**
- **2. Priority access should be on a “fair and equitable basis” by Contracting Parties, especially developing countries, to the results and benefits arising from biotechnologies based upon genetic resources provided by those Contracting Parties. Such access shall be on mutually agreed terms.**

Article 19: Biosafety

- 3. The Parties shall consider the need for and modalities of a protocol setting out appropriate procedures, including, in particular, **advance informed agreement**, in the field of the safe transfer, handling and use of any **living modified organism** resulting from biotechnology that may have adverse effect on the conservation and sustainable use of biological diversity.



Biosafety Protocol

The Protocol:

(1) Scope is narrow:

- Applies to living modified organisms (LMOs), but
- Transboundary shipments only
- Pharmaceuticals (article 5) (excluded completely);

(2) Prior Informed Consent (Advanced Informed Agreement) (Articles 8-10)

(3) Prioritizing *risk assessment* (Article 15 and Annex III) but permitting precaution.

- (4) Establishes a labelling regime (Article 18)
- (5) Promotes Best Practice through the Biosafety Clearinghouse (Article 19). www.bch.biodiv.org

Biosafety Protocol (cont'd)

- **Non-parties (art. 24)**
- **Notification of unintentional transboundary releases (Article 17)**
- **Illegal Transshipments (article 27)**
- **Liability (Article 27 and Protocol)**

CITES

- **Appendices**

- Appendix I: Endangered by trade (No commercial trade)

- **Exclusions**

- **National Apparatus for Implementation**

- **Conflicts: Elephants, Tuna, Mahogany, sharks**

- **CITES as an Ecolabel for sustainable trade**

CITES

- **Institutional Structure for Implementation:**
 - Secretariat at international level
 - Scientific and Management Authorities at National level
- **Appendices**
- **Exclusions**
- **National Apparatus for Implementation**
- **Conflicts: Elephants, Tuna, Mahogany, sharks**
- **CITES as an Ecolabel for sustainable trade**

Appendix I

- **“Appendix I shall include all species threatened with extinction which are or may be affected by trade.”**
- **Examples include African elephant, sea turtles, tigers**
- **Export permit requiring “no detriment findings”; legally taken; and humanely transported**
- **Import permit--Article 3(c): Management Authority of the State of import is satisfied that the specimen is not to be used for “primarily commercial purposes”.**

Appendix II

- Appendix II shall include:
- (a) all species which although not necessarily now threatened with extinction may become so unless trade in specimens of such species is subject to strict regulation in order to avoid utilization incompatible with their survival; and
- (b) other species which must be subject to regulation in order that trade in specimens of certain species referred to in sub-paragraph (a) of this paragraph may be brought under effective control.

Appendix II (cont'd)

- **Examples include hippopotamus, flamingos, grey wolf**
- **Export permit only (no detriment finding; lawful take; and humanely transported)**

Appendix III

- **Appendix III shall include all species which any Party identifies as being subject to regulation within its jurisdiction for the purpose of preventing or restricting exploitation, and as needing the cooperation of other parties in the control of trade.**
- **Examples include Golden Jackal (India); Walrus (Canada); Mountain Gazelle (Tunisia)**
- **Requires export permit only (lawfully taken and humanely transported only)**

Exemptions (Article VII)

- **Transshipment in customs**
- **Grandfathered in for animals taken before CITES applied**
- **Personal or household effects**
- **Captive Breeding or Propagation**
- **Scientific exchange (think Pandas)**
- **Travelling zoos and circuses (think Ringling Brothers)**

Implementation Issues

- **Trade with Non-parties requires “comparable documentation”**
- **Amendments (listing) on Appendices (article XV)**
 - Any party can propose 150 days before meeting
 - Amendments adopted by 2/3 vote of those present
 - enter into force in 90 days if no reservation
- **Reservations (Article XV(3))**
- **Examples: Saudi Arabia on falcons, hawks and eagles (falconry); Switzerland on certain birds and others; Japan on whales.**

Reservations

- **Definition**
- **Examples: Saudi Arabia on falcons, hawks and eagles (falconry); Switzerland on certain birds and others; Japan on whales.**