

STRATEGIC REVIEW
OF THE
IUCN ENVIRONMENTAL LAW
PROGRAMME AND CENTRE

FINAL REPORT

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STRATEGIC REVIEW OF IUCN
ENVIRONMENTAL LAW PROGRAMME AND CENTRE

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EXECUTIVE SUMMARY

The strategic review of the Environmental Law Programme (ELP) and the Environmental

There is widespread demand within IUCN global thematic programmes and regional programmes for more environmental law input and most programmes are increasingly meeting that demand from sources other than from the Environmental Law Centre. The Centre is less able to play a global coordination role and cannot expect to have in-house the wide range of highly specialised environmental lawyers that other global thematic programmes need.

The IUCN Academy for Environmental Law is doing work within the broad mandate of the Environmental Law Programme that the Environmental Law Centre is not currently doing. The IUCN Academy for Environmental Law arose from an earlier initiative within the Environmental Law Commission and was established as an independent organization in 2006. It receives financial support from IUCN and has a licence to use the IUCN name and logo but concerns have been raised about its ability to compete with the Centre (ELC) and the Commission (CEL) for funds. The review recommends that when the licence comes up for renewal in December 2007, IUCN seek a broader partnership agreement with the Academy that deals with some of the problems and gaps in the current licence agreement.

There are several units within IUCN that work on related economic and legal policy issues that each appears to be below critical mass in terms of resources. There may be both programmatic and operational benefits for IUCN to bring these units closer together within the context of the next Intersessional Programme 2009-2012. A closer union would help to align them more closely with one another, to avoid possible duplication, gaps and conflict, and to provide them collectively with more resources.

A programme window and political window of opportunity exists in Germany for IUCN to make decisions between now and 2008. The strategic review resulted in 19 recommendations, of which 11 are primarily for the consideration of IUCN's leadership and 7 are directed at the management of the Centre and the Commission, and one is directed at both. The timing of this review is propitious in view of the timeframe for programme planning between now and the WCC in 2008 on the one hand, and the political window of opportunity in Germany to sort out the linked questions of IUCN legal status, relocation of ELC or expansion of IUCN in Bonn, and expanded financial support from the German Government. In that same timeframe, decisions are needed from IUCN's leadership on the future of ECOLEX and the status of IUCN in Germany.

The operational machinery of the Commission on Environmental Law (CEL) is not working well as well as is needed with some regional programmes or with many global thematic programmes. The Commission (CEL) is the main decision-making body of IUCN in environmental law. It is the main body for the Commission on Environmental Law (CEL) and the Commission on Environmental Law (CEL) is the main body for the Commission on Environmental Law (CEL).

MoU	Memorandum of Understanding
NGO	Non-governmental organization
PBIA	Policy, Biodiversity and International Agreements Unit
RCO	Regional and country Office
SDC	Swiss Agency for International Cooperation
SG	Specialist Group
SIDA	Swedish International Development Agency
UNEP	United Nations Environment Programme
UNFCCC	UN Framework Convention on Climate Change
WANI	Water and Nature Initiative
WCC	World Conservation Congress
WCPA	World Commission on Protected Areas
WESCANA	IUCN Regional Office for West and Central Asia and North Africa

1. INTRODUCTION

1.1 Objectives of

audits for the Environmental Law Centre with all expenditures approved by, and signed for, by Centre management.

From the beginning ELC was supported by funds raised by the Commission, funds raised by ELC and core budget support from IUCN. It has also received funds from KSSF and other partner organizations. Throughout their 37 year history and changes in leadership, the Commission, the Centre, and its co-located partners have worked closely together.

2. ENVIRONMENTAL LAW CENTRE (ELC)

2.1 Management and operational structure

As an out-posted unit, the Environmental Law Centre has a self-identity that is greater than that found in IUCN headquarters among many of the secretariat units administering global programmes. The Centre is led by a Director who is also the Head of the Environmental Law Programme and is an environmental lawyer who previously served in ELC as a Senior Legal Officer. The Centre has a flat organizational structure. It has a strong team spirit and individual staff members express a willingness to go beyond the call of their job descriptions to ensure that the Centre functions smoothly and effectively – and survives. There are three operational units within ELC:

- *Management and Administration* with a Director, a Finance, Human Resources and Protocol Officer and a Programme Assistant (3 FTE);
- *Legal Team* comprising three Legal Officers and a Project Assistant (4 FTE);
- *Information and Documentation Unit* comprising four information specialists (3.5 FTE) which is responsible for maintaining ELIS, gives support to ECOLEX and also provides communication, publishing and website support to ELC.

In addition ELC has a Senior Counsel position (.5 FTE) whose time is shared approximately equally between the two operational teams and also serves as the Manager of the ECOLEX Management Unit. This position is currently filled by a former Director of the Centre. Total staff positions in December 2006 were 12 (11 FTE) of which all except the Director were locally hired. All incumbents are on indefinite contracts except for the three legal officers who were first appointed in 2005 - 2006 and come up for contract renewal in 2007.

The Centre has part time student assistants and attracts a number of interns and fellows who provide research and administrative support. Through the 1999 Agreement with KSSF, other services such as desktop publishing and ICT System administration services are provided that are charged at cost to IUCN (Box 1).

Box 1 1999 Agreement between IUCN and KSSF

SECTION	SECTIONS RELEVANT TO REVIEW
<i>Preamble</i>	<p>Whereas the IUCN Environmental Law Programme has benefited from this support for the past 30 years, in particular through the administration of the Environmental Law Centre (ELC) on behalf of IUCN pending IUCN having a legal personality in Germany, as well as through the provision of infrastructure for the Centre and of shared services to support this infrastructure;</p> <p>Whereas other co-located partners of the ELC, i.e. the Inter-parliamentary Working Group (IPA) and the Fund for Environmental Studies (FUST) have delegated to KSSF the management of the relationships with the Centre</p>
<p>1.1 <i>Personnel</i></p>	<p>KSSF will act as the employer of the staff of the Environmental Law Center (ELC) , as the agent of IUCN, and thus subject to the decisions of the Director General of IUCN, provided that these do not conflict with the rules applicable to KSSF as a non-profit organisation under German law</p> <p>IUCN will:</p> <ul style="list-style-type: none"> - compensate KSSF for such services, at cost - compensate KSSF for losses assumed as a result of employment of ELC personnel according to IUCN instructions which may result in legal proceeding in Germany
<p>1.2 <i>Bank accounts</i></p>	<p>KSSF will continue to have separate bank accounts for the operation of ELC in Germany, as required by IUCN, and with a small pool of authorized signatories agreed to and designated by both IU</p>

collection will become the property of IUCN while the rights of ICEL to use the data and documents within ELIS will be maintained.

7. Should ICEL be dissolved, IUCN would acquire all rights of ICEL to the documents and access to data.

The Centre staff members serving the Information and Documentation Unit are extremely dedicated and proficient but they say that they are hampered by a reduced budget for new acquisitions and reduced staff time. Even if there were more requests, the current staff members say that they could not serve many more people. There is no scanner in the library and the budget for the library is so low (€5000 per year for subscriptions and acquisitions⁹) that it basically relies on donations and free exchanges of materials – although the value of these are not to be underestimated.

At the same time, the staff of the Information and Documentation Unit is increasingly engaged in providing other services for the Environmental Law Programme, such as website support, communications, publications, production of the newsletter, translation, joint publication projects (e.g. the Kluwer publication with ICEL), and assisting in communications with the Commission. These diverse support services beyond their work for ELIS and ECOLEX reportedly account for 1.25 FTE or nearly 36% of the Unit's staff time allocation, compared to 2.15 FTE for ELIS (61%) and 0.10 FTE (3%) for ECOLEX.¹⁰ In the section on financial management (2.2) we recommend that the Environmental Law Centre should have a clearer picture of how staff time is allocated.

Programme management for the Centre also means coordination with other parts of IUCN, especially with the Commission on Environmental Law, and with other partners. Since at least 2000 the Environmental Law Programme has been designed as a seamless programme between the Centre and the Commission, with joint responsibility for its delivery. Furthermore, the *Environmental Law Programme Capacity Building Initiative* laid out a programme whose delivery depended not only on the Centre and Commission but also on the IUCN Regional and Country Offices.

For the ECOLEX Partnership, the Centre must report to a Partnership Board that includes FAO and UNEP as well as IUCN. Thus Programme Management involves a combination of project management for which the Centre has direct responsibility and programme *coordination* for a much larger set of activities that are delivered by other parts of IUCN, especially CEL and the Regional Offices but also IUCN members and partners like FAO and UNEP.

For the programme planning process just beginning for the Environmental Law Programme 2009-2012, the Centre brought together the legal focal points¹¹ based in the Regional Offices responsible for the regional law programmes and projects to meet in Bonn in December 2006 with the ELC legal team, paying for the travel costs of Regional staff out of its own budget. Meetings in Bonn with the Chair of CEL and the Director of the IUCN Academy of Environmental Law to discuss the Environmental Law Programme 2008-2012 took place in February 2007. How the Environmental Law Centre rises to the challenge of global coordination for the Environmental Law Programme is discussed in more detail in section 3.

⁹ There is also the possibility of matching grants from ICEL.

¹⁰ Data provided by individual staff members for 2006

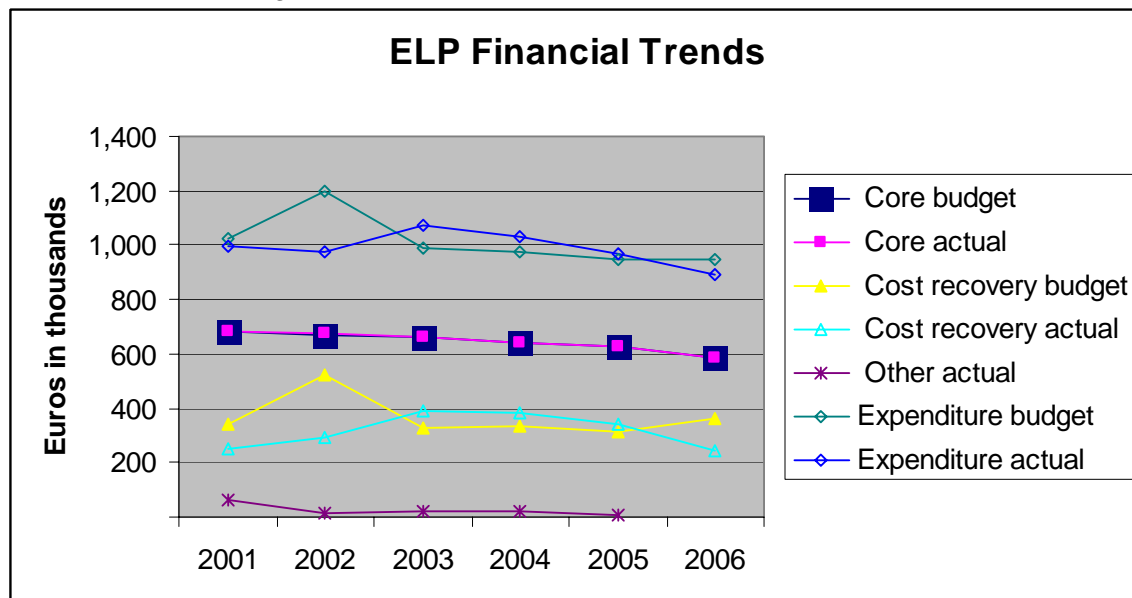
¹¹ Not all regional focal points for environmental law are trained as lawyers

There is a strong commitment on behalf of the Director of the Environmental Law Centre to improve the coherence of IUCN's work in environmental law across the Centre and the regional programmes, to work with CEL and the Academy, and to support the other global thematic programmes. Success in reaching this goal will depend as much, if not more, on its partners within IUCN as on the Environmental Law Centre itself.¹²

2.2 Financial viability and management

Figure 1 shows the financial trends since 2001. The financial situation for the Environmental Law Centre contains some inherent problems. Its core allocation has been steadily decreasing since 2001 and its cost recovery from projects has been more or less static for 2003-2005 with a decline in 2006 that - judging from the ABC List in December 2006 - is likely to be worse in 2007. There is little room to manoeuvre as some 75% of expenditures are either for staff costs or support services from partner organizations. In the budgets for 2007 and 2008 IUCN should try to build in some room for increasing salaries, especially for the three Legal Officers. The office space is provided rent-free by the German Government and other items in the budget such as travel, equipment, supplies, communications and books and publishing provide little opportunity for realizing any significant savings.

Figure 1 ELC Cost Centre financial trends 2001-06



Moreover the immediate financial outlook is not positive, particularly in the context of the ABC List. In December 2006, A projects represented 55% of the total and B projects represented 20%. The factoring of B projects in cost recovery for 2007 is 53% and for 2008, it is 85%. Three of the B projects have projected budgets of €150,000 or less.

¹² It goes beyond the remit of this review to discuss the extent to which different parts of IUCN can successfully collaborate to deliver a coherent programme but it is worth noting that the external members of this review team are struck by the intensely competitive atmosphere within the IUCN Secretariat between cost centres and the enormous loss of productivity and reduced overall performance of IUCN that is probably caused by it.

Thus there is a high dependency on one project of €1.5 million that is under negotiation. While ELC staff members are investing great effort into turning this situation around, the likelihood of a significant increase in cost recovery as early as 2007 is not strong. While this represents a significant risk for the financial viability of ELC, it is clear that much of the short-term problem is due to the loss of some experienced legal staff.

One opportunity for increasing the cost-effectiveness of the Bonn office is to increase the ratio of staff to office space. The building, generously contributed since 1999 rent-free to IUCN by the German Government is presently under-utilised by IUCN and one floor which we were told could be made available to IUCN is presently rented by the Government to the *Interparliamentary Working Centre (IPA)*¹³. The value of the rent-free

2.2.1 Financial operations

The review found that financial operations are in good order with rigorous tracking for commitments by the Head of Finance, good working relations with project managers and the ELC Director.

Under the present arrangement, KSSF, either on behalf of itself or one of its co-located partners, provides the financial and ICT services, and undertakes procurement, including such key items as insurance on the building provided to IUCN. The accounts of the Centre are kept separate from those concerning the activities of KSSF or its co-located partners, as are the bank accounts. No payment on behalf of IUCN is made without the authorization of the responsible officers of the Centre. Accounting operations for the Centre are transmitted to IUCN headquarters on a monthly basis. An annual external audit is performed on both the accounts of KSSF and the Environmental Law Centre without additional cost to IUCN.

However, we understand that IUCN Internal Audit has not visited ELC in recent years to review financial operations and in our discussions at headquarters it seemed that after so many years, a visit would be advisable as part of the normal cycle of internal audit reviews.

RECOMMENDATION 2
As part of the regular review cycle, the IUCN Internal Auditor should visit the Environmental Law Centre in Bonn and review with KSSF and its co-located partners, the management arrangements for the Environmental Law Centre.

At present the Environmental Law Centre is one Cost Centre for IUCN. However, ELC contains two main sub-units – the Legal Team who are developing and managing funded projects; and the Information and Documentation Unit. In addition to managing the documentation centre and library, the Information and Documentation Unit staff is responsible for ELIS/ECOLEX and for providing communication and information services

track all staff time by timesheet which might account better for the support provided by the Information and Documentation Unit to the communications and publications output of the legal team. Whatever system is adopted, the goal is for management to have a better understanding of the distribution of costs across the Centre, including the amount of its investment in the partnership that runs ECOLEX; the costs of maintaining ELIS, the increasing costs of support to communications and publications coming from the Information and Documentation Centre, and the ratios between core budget allocation and cost-recovery for the law projects managed by the Centre.

RECOMMENDATION 3

IUCN should consider either splitting the Environmental Law Centre into two or three sub-cost units, or tracking staff time by timesheet. This would provide a clearer picture of the cost recovery on project management achieved by ELC; it would enable IUCN to see what it is costing to support ELIS and provide IUCN's input to the UNEP-FAO-IUCN Partnership for ECOLEX; and it would provide a better financial picture of the costs of the information, documentation and communication services in the Centre.

2.2.2 Donor relations

In addition to the short-term collapse of the ABC list due largely to staff turnover, there is a longer term problem facing the financial viability of the Environmental Law Centre, and that is the decline in funding environmental

Regionalisation for ELP meant that the goal was to:

- Increase the general capacity within the IUCN regions in the area of environmental law, and
- Increase the capacity of these regions to propose, plan and implement projects within their region.¹⁵

The role of the Centre became more one of synthesising and disseminating national experiences and identifying appropriate Commission members to provide their expertise. The Regional Offices were now in the driver's seat in the Environmental Law Services component of ELP.

Where has this left the Environmental Law Centre? The Framework Donors interviewed for this Review all attest to the importance of environmental law to IUCN's programme, and to the central concern of OECD bilateral donors about governance and the rule of law as a key to poverty reduction, equity and sustainable development. However, since signing the Paris Declaration in 2005 most bilateral donors are increasingly providing development assistance directly to countries in the form of central budget support and sector-wide support. Thus recipient countries and not the donor agencies are responsible for the procurement of technical assistance (Box 2).

BOX 2. PARIS DECLARATION ON AID EFFECTIVENESS

In the *Paris Declaration on Aid Effectiveness* agreed in March 2005, donors have formally committed themselves to provide more of their bilateral aid to countries on the basis of national development strategies including Poverty Reduction Strategies. The Paris Declaration also commits aid donors to strengthen and use the procurement systems and public financial management systems of developing (partner) countries and thus reduce their use of parallel donor systems for either procurement or accountability. The agreed targets for 2010 are to achieve at least 85% of aid flows to be within national budgets (that is, *not* for specific donor initiated projects); and to reduce reliance on external procurement and external financial management systems by one to two thirds of 2005 levels.

Another component in the Paris Declaration is harmonization of donor support to countries. The targets for 2010 are that 66% of aid flows are provided in the context of programme-based approaches and that 66% of country analytic work is done jointly between donors and 40% of donor missions to the country are conducted jointly. Some European donors say that these trends may pose new challenges for them to secure continued public support for development assistance in their own countries, precisely because they cannot track what programs it has been spent on. However, donors say they are committed to reach the Paris Declaration targets.

This means that for most bilateral aid funds the responsibility for selecting the projects and consultants to be supported has increasingly shifted from most bilateral donors and development banks to the partner countries.

This major shift in the donor environment has made fundraising by the Centre for activities within the Environmental Law Programme very difficult. The position of the IUCN Framework Donors is that they have entered into a framework agreement with IUCN and, if environmental law is seen by IUCN as a priority, it is up to IUCN to allocate more of the framework funds to the Environmental Law Programme. The Regional Offices are better placed to approach donors, including framework donors, through their Embassies at country level than is the Environmental Law Centre. Finally, in terms of project support, most donors see environmental law as a

The review also heard that an important action they would like to see taken by IUCN senior management would be to develop more effective policies and procedures to guide different cost centres within IUCN in how they approach donors. This would reduce missed funding opportunities, multiple requests from different parts of IUCN and, in some cases, the fundamental annoyance to donors caused by IUCN's uncoordinated and internally competitive fundraising environment.

RECOMMENDATION 5

IUCN should reinforce existing procedures and protocols and develop new ones as needed to better manage multiple approaches to the same donors (including Framework Donors) from different parts of the Secretariat, as a first step to better coordinating fundraising for projects across the Secretariat and the Commissions.

2.3 ECOLEX AND ELIS

ECOLEX is an Internet portal to selected environmental law information contained in the information systems of the three partners (ELIS for IUCN and UNEP and FAOLEX for FAO). Between ELIS and FAOLEX, ECOLEX operates through an interface software. ELIS originated from a bibliographic database based on a unique platform (ROMULUS) that was an idea way ahead of its time in the early 1970s.

The objectives of ECOLEX are “to provide information on environmental law and to facilitate access to such information by users, particularly in developing countries and countries with economies in transition.”¹⁶

ECOLEX's comparative advantage (and business case) is that:

- It provides in one site information on environmental treaties, national legislation, European Union instruments, court decisions, soft-law and literature on law and policy. On entering its home page www.ecolex.org the user can select from four databases – Treaties; National Legislation; Court Decisions and Literature for either individual or cross-searches.
- It covers a wide range of environmental topics including fresh and marine water, air and atmosphere, soil and land use, species and ecosystems, fisheries and forestry, hazardous substances, chemicals and waste as well as food and agriculture.
- It contains full text links to more than 500 Multilateral Agreements, over 35,000 records on national legislation, and over 25,000 records on policy and literature as well as other bibliographic and analytical information.

¹⁶ UNEP-IUCN-FAO Partnership Agreement for ECOLEX November 2001, Article 1b.

2.3.1 ELIS

ELIS – the Environmental Law Information System - originally covered all areas that are now within ECOLEX. Through an initial partnership with UNEP funded by the Netherlands (DGIS) to link IUCN's Environmental Law Information System (ELIS) for multilateral treaties to full texts available at UNEP, the current Partnership Agreement between UNEP, IUCN, and FAO has allowed a redistribution of tasks between the partners. National legislation became the responsibility of FAO, court decisions became a responsibility of UNEP and treaties, policies and law literature remain the responsibility of IUCN. ELIS and FAOLEX information systems were originally based on different operating rules and software systems which meant that harmonization was difficult. w37705 0 c.0009

Given the current difficulties among the partners to fund a fully functioning ECOLEX, it would seem that the Partnership might look for additional resources from new partners. At its last meeting in March 2006, the Steering Committee decided to give priority to strengthening the existing partnership before considering new partners. This may be a decision that should be revisited.

From our interviews it appears that the ECOLEX Partnership also suffers from a lack of visibility at the highest levels of governance and management of its partner organizations. This is a matter to which we return in section 4.1 with respect to decisions facing IUCN.

Table 2 Assessment of the ECOLEX Partnership

CRITERIA	ASSESSMENT OF UNEP-IUCN-FAO PARTNERSHIP FOR ECOLEX
Clear vision for partnership	The vision is supply driven. It is clear in terms of its rationale to avoid duplication of effort and building on organizational synergies between the

2.3.3 ECOLEX Management Unit

Under the Partnership agreement with UNEP and FAO, IUCN hosts and administers the Management Unit for ECOLEX which is housed in ELC. The Management Unit submits an annual workplan for approval by the partners, which includes tasks such as the development and maintenance of the ECOLEX interface. The Management Unit is also responsible for outreach (brochures etc) and fundraising tools (proposals).

According to information provided by the staff of the Centre, running the ECOLEX Management Unit requires less than 20% of the time of one full time equivalent staff member, which is mainly accounted for by the time of the Senior Legal Counsel (12.5 FTE) as manager, plus small inputs of time from three of the staff members of the Information and Documentation Unit.

2.3.4 ECOLEX Users

The Management Unit tracks the usage of ECOLEX. The website statistics for 2006 show an average of about 2,200 unique visitors and about 5,750 visits per month¹⁹. Approximately 70-80% of those visits lasted less than 30 seconds which indicates that those users did not complete any search within the website that allowed them to actually read any document. These users can be subtracted to obtain a truer picture of 'sustained users'. About 11% of users in 2006 spent at least 15 minutes visiting ECOLEX and 4% spent at least one hour at each visit. These are the core users of ECOLEX but they number only about 250 visitors per month (users spending at least 15 minutes on each visit).²⁰

The most commonly visited part of the website is (1) the listing of literature sources; (2) list of treaties and (3) searches of individual treaties and specific pieces of legislation. This is not unexpected but it confirms what we heard in our interviews with users that ECOLEX is more a tool for researchers than for practising lawyers or legislators. The geographic distribution of pages visited for Sept-November 2006 showed that 10-12% of country domains were in developing countries²¹.

We were unable with the web-statistics available to do the level of user analysis that IUCN and its partners need to make strategic decisions about further development of ECOLEX. A further analysis should be done of ECOLEX's website statistics in 2007 after the new website is launched together with whatever comparative data can be obtained for other environmental law websites. Without this, it is not possible to say how ECOLEX compares with its on-line competitors. But the numbers we have suggest that ECOLEX is not competitive. Visits are low and sustained usage appears to be very low.

¹⁹ The comparative figures for the ELP webpage for the first six months of 2006 are an average of 7,245 unique visitors per month and 17,050 visits per month; that is about three times the traffic attracted to ECOLEX

²⁰ User numbers may be down in 2006 owing to problems in the ECOLEX website and it is anticipated that the numbers will increase once the migration to the new platform is completed and the website has a new user interface.

²¹ This ignores domain names ending in .com, .org, .edu etc which are not geographically defined

In addition, very few of the people interviewed for this review reported that they use ECOLEX. This includes members of the Commission and IUCN staff in headquarters, as well as donor representatives. Among the main users are the Centre's staff lawyers who also receive individualised search services from Information and Documentation Unit staff.

The users whom we interviewed during the course of the review point to the value of ECOLEX as a research tool in comparative law and at the same time express concern about how well updated it is. This is its main drawback a result of the practicalities of the 5.2(w5ers)-7.

3. ENVIRONMENTAL LAW PROGRAMME

With such an integrated programme, the challenge for the review team is to sufficiently disentangle the contributions of the different players in order to be able to also evaluate the other main focus of this review – the Environmental Law Centre. Of the 23 Intersessional Results included in the ELP, 17 (74%) are to be *jointly* delivered by the Centre and the Commission. Sole responsibility is assigned to the Centre for only:

- (1) The management of the website and other communication tools;
- (2) ELIS and ECOLEX; and
- (3) Coordination with other parts of IUCN for delivery of the Programme.

This high degree of joint responsibility for Programme implementation between the Commission and the Secretariat makes accountability very hard to pin down.

RECOMMENDATION 6

BOX 3 'IUCN' TREATIES OF PRIORITY TO ELP²³

- Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES);
-

Table 3 summarises the results of the analysis. Taking a value-chain approach, it shows that only a small proportion of resources are expended on conceptual development (7%) and the largest amount - more than half of the Programme planning budget for the Intersessional - is directed to knowledge generation (54%). Much of this

The largest sub-allocation (42%) within the treaty category is for work with the Ramsar

About 20% of the total Intersessional planning budget for ELP is either designated for other parts of IUCN than ELC to deliver the results or is for ELC to support their work. This includes support for the strategic planning process for the next Intersessional and participation in the WCC. Half of this 'transfer' budget (50%) is for support to CEL, either as direct transfers or for ELC to provide support to them, such as staff focal points for the CEL Specialist Groups. A further 20% is for legal work with and by the RCOs. Out of this part of the budget, the IUCN Academy of Environmental Law receives €145,000 or 11% the transfers within the Environmental Law Programme (Table 3), as contributions to its annual meetings and publication arising from the meetings.

3.2 Relevance of the Environmental Law Programme

Relevance is defined very much from the perspective of the stakeholder and we found differences between stakeholder assessments of the Programme's relevance depending on where they stood.

There is broad agreement among stakeholders both inside and outside IUCN that environmental law is critical to the work that IUCN does and should be part of almost every programme and priority area. Stakeholders see environmental law as central to governance issues which are themselves central to sustainable development, equity and poverty reduction, and to the achievement of the Millennium Development Goals. Some stakeholders make the distinction between environmental law *per se* and the insertion of environmental considerations into law and policy for other sectors such as macroeconomics and national budgets, finance, trade, mining, infrastructure and transportation. The Environmental Law Programme includes very little work in the latter areas.

At the most general level, all the Programme activities planned for 2005-08 are relevant in that our analysis of the annual workplans for 2005-08 did not reveal any activities that fall outside of the programme framework as described in section 3.1. In this respect, taken individually, the programme activities are *all* relevant to the mission of IUCN and more particularly to the joint mission of the Commission and the Centre.

3.2.1 Conceptual Development

Stakeholders see environmental law as most relevant when it is contextualised within a specific management setting – a country, the use of a natural resource, the resolution of a resource management conflict. Most stakeholders, unless they are lawyers, do not place much importance on the niceties of legal concepts until they become part of a governance or management problem. This means that there is less stakeholder support – particularly from within the IUCN Secretariat - for

'Capacity Building Initiative' which was endorsed at the Bali preparatory meeting for the World Summit on Sustainable Development as a Partnership Initiative.²⁷

The Initiative identified the role of the Centre in Bonn as global coordination with delivery of practical training and technical assistance provided through the Regional Programmes and partner centres in the regions. This regionalisation process has led to very small allocations in the Environmental Law Programme 2005-08 for capacity building or technical assistance. Correspondingly, the Centre is no longer delivering outputs at country level and even its role in global coordination for technical assistance and capacity building is increasingly dependent on the concurrence of the Regional and Country Programmes.

3.3 Effectiveness of the Environmental Law Programme

One set of indicators for effectiveness relate to programme planning and implementation processes – how are the workplans developed and are there clear relationships between the Intersessional Programme, the annual workplans, programme delivery and reporting? Our examination of programme planning and reporting documents and our interviews with staff in the Centre show that the programme processes from inception to reporting are clearly linked for this Intersessional Programme.

Another set of indicators for effectiveness relate to how well the Centre collaborates with others in IUCN to design and deliver the Environmental Law Programme and, in turn, how well the Centre contributes to other programmes. These indicators are more difficult to determine because they require some measures of the effectiveness of partnerships which are not entirely within the control of the Centre. The main partnerships that the Centre must successfully manage for an effective programme delivery are with:

- The Commission
- Other global thematic programmes
- Regional and country offices
- Members and partners²⁸

3.3.1 Collaboration with the Environmental Law Commission

Since the Environmental Law Programme is delivered primarily through the work of the Centre and the Commission, an effective delivery requires close collaboration between both of them, and between them and the rest of IUCN. Collaboration between the

²⁷ Lausche, B.J., 2007, Weaving a Web of Environmental Law: Contributions of the IUCN Environmental Law Programme; Chapter 27, *in press*

²⁸ We were not able to interview any Members who have worked within the Environmental Law

Centre and the Commission is based on considerable goodwill on both sides and a common mission.

There is documentary and interview evidence of joint planning and joint implementation for the Environmental Law Programme. Both partners actively took on board the IUCN remit to bring the work of the Commission and the Secretariat closer together. There is also strong evidence of collaboration between the Centre and individual Commission members in producing the reports and publications which are the outputs of the Programme.

However, the collaboration between them could be more effective. We see five areas where Commission and Centre collaboration could be strengthened in support of a more effective delivery of the Programme:

- Agreement on priorities for the most effective use of available resources;
- Better information sharing leading to more effective coordination in fundraising;
- A strengthened Commission membership in the regions, especially in Africa so that the Commission can provide the legal expertise needed for the execution of regional programmes and country projects;
- A more effective organizational and communications model for the Commission that reduces the relative isolation of Specialist Groups from one another and from Specialist Groups in other Commissions;
-

One of the obstacles to effective delivery of the Environmental Law Programme is the number of Specialist Groups and Task Forces (16) in the Commission (Table 6). This spreads programme resources and administrative support within the Centre too thinly.

Collaborative mechanisms

Both the Centre and the Commission lack sufficient funds to pay for the mechanisms needed to support collaboration between them. For example, the Centre focal points are unable to attend key meetings of the Specialist Groups and the Specialist Group chairs and members are unable to

Fundraising

One of the biggest challenges to an effective working relationship between the Centre and the Commission is collaboration in project fundraising. There has been a history of sometimes difficult relationships in the past over fundraising between the two partners, which is part of a larger problem in IUCN about different parts of the organization competing with one another in their approach to donors. There appears to be no effective *system* in place to inform the Centre about project funding initiatives of Commission Specialist Groups. Rather it relies on personal relationships and chance transfers of information. The reality is that without a changed model of the working relationship between Commissions and the Secretariat, within a more fundamental organizational change for IUCN, the effectiveness of fundraising for the Environmental

Commission organizational model

The Commission went through a major upheaval in 2004 when it renewed its membership for the next Intersessional period. Membership fell from a high of 900 in 2002 to 368 members in December 2006. This led to problems of continuity and loss of institutional memory. It also placed the former Centres of Excellence (now renamed Partner Centres) in an unclear relationship with the Commission. The organizational model for the leadership of the Commission changed in 2004 from being structured on Regional Vice-Chairs to Specialist Group Chairs. This is reported to have changed the nature of the discourse in the Commission from less regional issues to more specialist topics. While it may have weakened the Commission's support to the regional programmes, it should have strengthened its capacity for input to the Global Thematic Programmes.

3.3.2 Collaboration with other Global Thematic Programmes

The other global thematic programmes deal with both policy and legal aspects of their

Thus for the water programme, the three key conditions for effective collaboration were fulfilled – an expressed need/demand, a supply of technical expertise, and resources to underwrite the costs of collaboration.

In the case of three other global thematic programmes – Protected Areas, Forests and Marine – not enough of the necessary conditions for effective collaboration with the Environmental Law Programme were present. Mainly it was a lack of expertise in the Centre or the Commission and/or a lack of resources within the Environmental Law Programme to pay for the collaboration. In these cases, other strategies were pursued to obtain the needed legal input – hiring external consultants, working with lawyers in the

Our analysis suggests that while the Environmental Law Centre can, and does,

themes, principally water, transboundary issues, and invasive species. But some of the priorities identified by the regional programmes are not priorities within the current Environmental law Programme, and some – like capacity building for government officials and lawyers working at national level – are ones for which the present working model of the Centre is not well adapted. The need to find coherence across global thematic programmes like the global thematic programme for environmental law and regional programmes emphasises the importance of joint planning and/or agreeing on which priorities should take precedence to guide other programmes

RECOMMENDATION 13

The Environmental Law Programme should continue to support the environmental law work of the regional programmes by including activities and knowledge products relevant to regional priorities and to capacity building in environmental law.

The contacts between the Commission and the Regional Offices are less active than those with the Centre. In Africa, the problem is the paucity of Commission members who can work with countries. In Asia, the Commission is reported as not very active and in WESCAN, there are some contacts but not an effective network of Commission members on which to draw. In South America the contacts are with a few individual Commission members who have worked with IUCN before, rather than being mediated through the Commission structures. The general message is that the regions would welcome stronger input from the Commission, especially if the regional networks of Commission members could be strengthened.

3.4 Environmental Law products and services

The outputs of the Environmental Law Programme consist principally of:

- Publications and reports
- Website and the Newsletter
- Information services including ELIS and ECOLEX.

The Information and Documentation Unit and ECOLEX are discussed in section 2.3. The Environmental Law Programme has a new website which was launched in December 2006. It is better designed with clear descriptions of the Programme and the Centre and descriptions of the products and services. It is not yet complete but is a good improvement on the old website. The 2006 Newsletter was issued in December 2006 and provides readers with a mix of articles on a theme (Compliance and Enforcement) as well as reports from the Commission and its Specialist Groups, the Centre and the IUCN Academy of Environmental Law. This is a continuation of the

into other languages. It seems short-sighted for IUCN to miss important opportunities for widespread policy influence, by under-investing in marketing, translation and distribution, especially once a product is seen to meet a demand. The Environmental Law Programme desperately needs a marketing strategy for its products and the funds to implement the strategy.

RECOMMENDATION 14

The Communication and Publication Unit of IUCN and the Environmental Law Centre should commission a marketing strategy for Environmental Law publications based on the demand for existing and potential new knowledge products, in different languages, and on that basis seek financial support to further translate and disseminate them to new audiences.

Given the emphasis given to knowledge products in Environmental Law, a publications and marketing plan should form part of each Intersessional Environmental Law Programme.

4. KEY STRATEGIC QUESTIONS

4.1 Future of ECOLEX

Most people we spoke to in IUCN do not really value ECOLEX. They know little about it or the ELIS information system on which it is based. Most have never visited the website. Those who are closer to ECOLEX, including those in the Centre, agree that IUCN and its partners need to make major new investments in ELIS if ECOLEX is to be competitive – or perhaps even to stay alive³⁷. Information and documentation staff in the Centre struggle to keep the IUCN ELIS database up to date and the website functional. Information systems IUCN ELIS database update may a

The immediate strategic questions for IUCN are to find out:

- Whether there is a need and/or demand for ECOLEX's services (and unique value proposition) from its target audiences;
- If ECOLEX can fulfill that need both over the short and longer term;
- What it will cost the Partnership now and over the next 5-10 years to update all the databases and systems and upgrade ECOLEX to be competitive;
- What the present and future demand and supply scenarios are for environmental law information services

If IUCN determines that ECOLEX merits support as one of its International Public Goods, it should take a more corporate responsibility for investing in ELIS and for promoting ECOLEX and finding the resources and partners that are needed to make the website competitive. It is unfair to both ECOLEX and to the Centre to leave ELIS/ECOLEX within the Centre budget, where it will almost certainly become more squeezed for vital resources than it is now. Not only the IPG character of ECOLEX but also the international partnership with UNEP and FAO means that ECOLEX's future is one for the leadership of IUCN and its partners to pay attention to and to decide.

BOX 4 INTERNATIONAL PUBLIC GOODS³⁸

"Public goods produce benefits that are non-rival (many people can consume, use, or enjoy the good at the same time) and non-excludable (it is difficult to prevent people who do not pay for the good from consuming it). If the benefits of a particular public good accrue across all or many countries, then this is deemed a global or international public good.

In their pure form, true global public goods are rare. Therefore, Bank Management adopted a more operational definition in 2000: "Global public goods are defined as

We would recommend that IUCN examine the future options for ELIS and for ECOLEX after undertaking – with its partners, UNEP and FAO – a more in-depth evaluation of ECOLEX and the databases and gateways on which it is built than we are able to do here.³⁹ There appear to be two alternative futures for ECOLEX. If ECOLEX can deliver on its value proposition as a unique International Public Good, it might attract support from international assistance donors and foundations. If it demonstrates a sound business model, it could attract some of its current competitors to become strategic partners.

However, if ECOLEX can demonstrate both a *demand for its services and that it can successfully compete for users*, IUCN should consider potential strategic partnerships to inject more resources into the Partnership. In our view, the worst decision for IUCN would be to do nothing – to continue to commit insufficient resources to ELIS and ECOLEX from within a constrained Centre core budget without any long term strategy – exit or otherwise.

RECOMMENDATION 15

With its partners, IUCN should conduct an independent in-depth technical, financial and market assessment of ECOLEX with a view to deciding its future within IUCN. Based on the proposed evaluation, IUCN can decide whether it wishes to continue, expand or leave the ECOLEX Partnership.

4.2 IUCN Legal status in Germany

Since 1970, when IUCN established an out-posted office of its Secretariat to serve the environmental law programme, it has had no separate legal personality in Germany. Rather, it has been, and is still, embedded as an “Environmental Law Programme” within KSSF, a German non-profit association (*eingetragener Verein*) headed by the founding Chair of the Commission on Environmental Law. The latest agreement between IUCN

thematic programmes can work well despite the separate location in Bonn. But the record is uneven and in those cases where working relationships are further apart, it is reasonable to suppose that closer proximity of staff from the Environmental Law Centre and other global thematic programmes would improve collaboration – or at least provide more opportunities for doing so.

There do not seem to be any cost advantages to moving the Centre to Gland – rather, it is likely to cost IUCN more if ELC is relocated. The salary differential is small. Salary and benefit costs in Bonn are calculated to be 96% of those in Gland⁴². However, the high quality office space in Bonn and its maintenance beyond cleaning etc. is provided free of charge to IUCN by the German Government. IUCN also receives a grant of €50,000 per year in lieu of taxes paid by staff. Were the Environmental Law Centre to move to the new building in Gland, IUCN would have less space to potentially sublet to other organizations.

If it is decided to keep the Centre in Bonn, there is a greater onus on the staff of ELC and the Director in particular, to strengthen communications and working relationships with colleagues in headquarters. This has not been a priority in the first year of hiring new staff and building the Centre staff team but it must become a priority in 2007. At a minimum, the Environmental Law Centre should have a physical presence in headquarters, either an office base and/or one legal officer.

The question of relocation to IUCN headquarters has been a sword of Damocles hanging over the head of the Centre for too long. It creates uncertainty and is demoralising for ELC staff. The question should be resolved by IUCN leadership one way or the other, but it is clearly a delicate and complicated question closely linked to the negotiations with Germany about legal status in Germany and support for IUCN, and also a sub-text in the negotiations with Switzerland about the new headquarters building in Gland. As indicated in section 2.2, IUCN could also consider the option of *enlarging* the Bonn office by relocating there a suitable unit within the secretariat.

RECOMMENDATION 18

IUCN should not make any immediate decision about relocating ELC until it has concluded discussions with the federal German authorities about IUCN's legal status in Germany; future financial support to IUCN and alternative uses for the IUCN office building in Bonn.

These discussions should involve IUCN leadership at the highest levels, including the Director General.

⁴² Based on calculations provided by the IUCN Head of Global Human Resources

4.4 IUCN Academy of Environmental Law

and subsequent scholarly publications. As a university based international network for capacity building, it has attracted strong donor support.

4.4.1 The Licence Agreement

The Academy has the right to use the IUCN name and logo⁴⁴ through a licence agreement with IUCN. This agreement was signed in May 2006 and runs for an initial period until December 2007. Henceforth it is renewable on an annual basis. The agreement specifies that the Academy will:

- Undertake academic research, studies and conferences on the further conceptual development of environmental law that promote the achievement of the mission of IUCN;
- Work closely with IUCN's Director General, the Environmental Law Centre and the Commission and report annually to the DG;
- Not issue any statements in the name or on behalf of IUCN;
- Limit its fundraising to academic endeavours that promote the Programme of IUCN and the mandate of CEL, and coordinate its fundraising activities with ELP such that it will not compete with ELP.

For its part, IUCN recognizes that much of the fundraising for the Academy will be carried out by its members – the universities and academic experts around the world – and agrees that *nothing* in the Licence Agreement

“Is intended to prevent and restrict these organizations from pursuing fundraising in the name of the Academy and in support of Academy projects and programmes that are connected to activities and initiatives of the said organizations.”⁴⁵

This is an important concession by IUCN that not only the Secretariat of the Academy but *any* of its member organizations can use the name of IUCN in raising funds. The proviso that the activities for which funds are sought must be connected to the Academy programmes does not really constrain the Academy members from using IUCN's name for fundraising since almost any academic endeavour in environmental law is likely to qualify.

4.4.2 The way forward

One can look at the IUCN Academy as a glass half full or half empty. The Academy brings to the service of IUCN's mission and to the Environmental Law Programme the

⁴⁴ The Academy also has its own logo which it uses rather than the IUCN logo

⁴⁵ Licence Agreement between IUCN and the IUCN Academy for Environmental Law, Article IVc, May 2006

strength of university law faculties and research institutions which were previously less engaged in IUCN. It has also obtained funding to hold conferences, conduct research and publish results. The Academy has the advantage that it can seek funding not only from international donors but also national research councils so this extends the funding reach of IUCN.

The 'glass half full' perspective is that the Academy is doing work within the Environmental Law Programme that cannot, and is not, being done by the Centre or the Regional Programmes. It is engaging law faculties and leading academic lawyers in research and curricula development that are relevant to IUCN. It is also providing another platform for some Specialist Groups within the Commission and will eventually build environmental law expertise in the regions that could support the work of the IUCN regional programmes.

The more negative view is that the launch of an IUCN Academy for Environmental Law seeking funds for activities in the name of IUCN Environmental Law Programme creates confusion and competition with the Environmental Law Centre, especially in a donor world in which funds for environmental law are scarce and some international donors are already concerned about multiple requests from different parts of IUCN. The Academy is a separate legal entity so it can enter into partnership agreements and contractual relationships with any other organization, including UNEP with which it is already negotiating an MoU.

The problem is compounded when the demarcation of programme activities between the Academy and the Environmental Law Centre are not clear-cut. The Centre would like the Academy to stay within its niche of curricula development and academic teaching. But the licence agreement and the original proposal to Council specify that the Academy will conduct *research, studies* and conferences which could be interpreted to include pretty much everything in the Environmental Law Programme, except perhaps for some technical assistance projects to governments. In reality, the arrival of the Academy on the Environmental Law scene has reduced the programmatic and funding space for the Centre within the Environmental Law Programme, just as the rise of the regional programmes did before.

The licence agreement also recognises that each of the university law faculties that are members of the Academy can raise funds in the name of IUCN for activities within the IUCN Environmental Law Programme. Thus, the legal instrument between IUCN and the IUCN Academy offers no remedy when it comes to either defining responsibilities for which parts of the Programme each will deliver, or how to coordinate fundraising by the worldwide *members* of the Academy. In our experience even *knowing* after the fact what fundraising proposals the members have submitted will be a challenge as much for the Academy secretariat as for the Environmental Law Centre.

Any difficulties in the working relationship that arise in this first year of implementation should be monitored so that appropriate adjustments can be negotiated by the Director General when the licence is due for renewal in December 2007. At that time, both IUCN and the Academy will each have to decide on where the balance lies in the costs and benefits of the current relationship. If the licence is not renewed, the work of the Academy will doubtless continue but perhaps in ways that are less closely aligned with the Environmental Law Programme, and with some possible loss of volunteer input to the Environmental Law Commission.

The way forward should be to seek as much goodwill and practical cooperation between IUCN-ELC and the Academy as possible – as the principals are now doing. The two partners have quite different strengths and this must also be apparent to donors as they consider supporting specific proposals within the Environmental Law Programme. Given that the Academy is here to stay, it is in our view better for IUCN to have the Academy *within* the IUCN family than outside it.

Our suggestion is that IUCN focus less on trying to better define the line between the

5. CONCLUSIONS AND RECOMMENDATIONS

5.1 Conclusions

There are a number of important programme and operational decisions facing IUCN about the Environmental Law Programme whose outcomes could have far reaching consequences for IUCN, politically, organizationally and programmatically. Fortunately the decisions line up in a logical sequence within a clear window of opportunity that lasts for about 2-3 years; that is, from now until the World Conservation Congress in late 2008 and the new IUCN headquarters building is complete in 2009-10. Time is however of the essence, since making the operational and programme changes needed, will take 2-3 years even if started immediately.

The findings of this review lead to a set of interrelated conclusions about the Environmental Law Programme and the Environmental Law Centre, some of which have implications for the Commission on Environmental Law. These are:

1. The Environmental Law Centre is very well managed, well resourced and well supported. It has a strong track record and a clear vision. It is a key asset of IUCN and should be maintained and strengthened.

- Secretariat support to a strengthened and more focussed Commission;
 - Coordination and generation of demand-driven knowledge products and services in environmental law.
7. The Environmental Law Centre, as a separate unit in IUCN is below critical mass for effective delivery of the Environmental Law Programme Programme.
- It is finding it increasingly difficult to raise funds for environmental law projects that are not embedded in the other global thematic programmes.
 - It cannot respond to all the requests for technical support coming from the regions and global thematic programmes.
 - It is not working as much as is needed with central units like PBIA, Business and Biodiversity and the Senior Advisors on Economics and Environment, Gender and Social Policy.
 - The Director and small legal team cannot reasonably provide all the legal services that IUCN's programme and policy positions need.
8. The problem of effective delivery of the Programme is also influenced by programme and policy choices made within the Environmental Law Centre and by the Commission. Knowledge production and services in the Environmental Law Programme to the rest of IUCN depend heavily on the knowledge resources of the Commission but these are not well organized and mobilized for IUCN's programme needs.

We see a need for a renewed 'covenant' between the Commission on Environmental Law (and probably all Commissions) and IUCN to better organize the knowledge networks of the Commissions in the service of the IUCN Programme, so that core resources are not spread too thinly across different Specialist Groups and the Commission supports IUCN's programmes in the regions by proactively recruiting outstanding expertise from all regions to its membership.

9. ECOLEX is at a cross-road. The evidence suggests that its user base is small and that it is losing some of its original value-proposition and current competitiveness. A decision on ECOLEX's future should be made within the next two years, following a detailed evaluation of its potential market and costs (including for IUCN, the costs of maintaining ELIS). The longer the decision is delayed, the fewer options are likely to be available to IUCN and its partners. ECOLEX has been seen for too long as primarily the Environmental Law Centre's concern. We believe that IUCN senior management should assume direct responsibility for determining the future of ECOLEX within IUCN.

The costs for ELIS which are integral to the operations of ECOLEX are built into d i r e c t

10. Suggested future priorities for the Environmental Law Programme include more attention to:
- Questions at the interface of environmental law and *economics* such as the design of policy frameworks in the market place to achieve IUCN's mission;
 - Support to governments in negotiating with the *private sector* to protect their natural resources and biodiversity; for example, helping developing countries deal with off-shore fishing companies, or multilateral mining corporations;
 - Providing the knowledge products to support *capacity building* in environmental law among government officials, civil society and lawyers;
 - Working with other parts of IUCN to assist countries and IUCN to develop their *policy position*.
11. Although we did not have time to examine the idea in any detail, we can see the potential in bringing environmental law, economics and environment, and policy (PBIA) to work more closely within the framework of the next Intersessional Programme. At present all three units (Senior Advisor on Economics and Environment, PBIA and the Environmental Law Centre) appear to be below critical mass in terms of the staff and financial resources needed for each of them to be as effective as IUCN needs them to be.

How formal any increased interaction might be in terms of organizational structure - and whether a programme unit on **IUCN Environmental Policy and Law** is appropriate - we leave to IUCN management to consider, but bringing their activities closer together would appear to hold synergies for IUCN both programmatically and operationally.

12. IUCN has the ongoing generous offer of rent-free high quality office space from the federal German authorities. We believe that they would be open to proposals from IUCN about using more of the building and increasing the number of IUCN staff posted there. Thus IUCN has the possibility of more office space in Bonn at less unit cost than in Gland with the added advantage for fundraising purposes

Table 8 Time line for key decisions to be made by IUCN 2007-08

TIMELINE	ACTIONS FOR IUCN LEADERSHIP	ACTIONS FOR ENVIRONMENTAL LAW CENTRE AND LAW COMMISSION
Immediate	<ul style="list-style-type: none"> ○ Director General visits Bonn and begins discussions with German authorities on IUCN's legal status in Germany and future funding ○ Evaluation of ECOLEX discussed at Partnership Steering Committee meeting ○ IUCN Internal Auditor visits ELC in Bonn as part of routine audit review cycle 	<ul style="list-style-type: none"> ○ ELC Director and staff are more proactive in interacting with other global thematic programmes and being visible in headquarters ○ Further discussions with Regional Progra.4 -1.X 2.16f2(itt1.4 -1.1467 TD[

5.3 Recommendations

Most of the 19 recommendations arising from this review are directed at IUCN senior management and governance bodies since they go beyond the capacity and authority of ELC. The rest concern the programme and management of ELP which are principally the responsibility of ELC and the Commission. Thus the recommendations are addressed principally to two groups:

- (1) IUCN leadership on the major policy issues that this strategic review has identified and
- (2) The Environmental Law Centre and the Commission on Environmental Law which must work together to deliver a relevant and effective Environmental Law Programme.

5.3.1 Recommendations to IUCN leadership

1. Although discussion so far seems to have focussed on whether to bring the Environmental Law Centre to Gland, IUCN should consider all its options with respect to the office in Bonn, including that of *increasing* the number of staff posted to Bonn, once independent legal status in Germany has been granted. There are opportunities for out-posting another IUCN unit, preferably with close programmatic links to ELC and to other international environmental organizations based in Bonn. (*Recommendation 1*)
2. As part of the regular review cycle, the IUCN Internal Auditor should visit the Environmental Law Centre in Bonn and review with KSSF and its co-located partners, the management arrangements for the Environmental Law Centre. (*Recommendation 2*)
3. IUCN should consider either splitting the Environmental Law Centre into two or three sub-cost units, or tracking staff time by timesheet. This would provide a clearer picture of the cost recovery on project management achieved by ELC; it would enable IUCN to see what it is costing to support ELIS and provide IUCN's input to the UNEP-FAO-IUCN Partnership for ECOLE, and its 1475 TD0. (Recommendation 3.)

workplans.

Since this recommendation touches on the statutory relationship between the Commissions and the Secretariat, and may also be relevant to other Commissions, the Director General and Council may wish to consider developing an MoU on a new relationship between IUCN core support to Specialist Groups and the targeting of their objectives and workplans to support the IUCN Programme. (*Recommendation 9*)

7. The Communication and Publication Unit of IUCN and the Environmental Law Centre should commission a marketing strategy for Environmental Law publications based on the demand for existing and potential new knowledge products, in different languages, and on that basis seek financial support to further translate and disseminate them to new audiences.

Given the emphasis given to knowledge products in the Environmental Law Programme, a publications and marketing plan should form part of each Intersessional Environmental Law Programme. (*Recommendation 14*)

8. With its partners, IUCN should conduct an independent in-depth technical, financial and market assessment of ECOLEX with a view to deciding its future within IUCN. Based on the proposed evaluation, IUCN can decide whether it wishes to continue, expand or leave the ECOLEX Partnership. (*Recommendation 15*)
9. IUCN should take the opportunity of a higher profile for the Environmental Law Centre in Germany in the preparations for CBD COP9 to work with the relevant German Ministries to seek International Organization or other appropriate status for IUCN within Germany, so that it can operate effectively and hire its own staff.

An early visit of the new IUCN Director General to Bonn is advised to meet with officials from the Federal Government and the City of Bonn. (*Recommendation 16*)

10. In consultation with German officials to determine appropriate actions to take, IUCN should prepare to obtain independent legal status within the next two years (whether as an International Organization, Non-profit Association or Foundation). IUCN should appoint a senior advisor/expert to act on its behalf. (*Recommendation 17*)
11. IUCN should not make any immediate decision about relocating ELC until it has concluded discussions with the federal German authorities about IUCN's legal

IUCN should seek a broader Partnership Agreement with the Academy.

IUCN should work with the IUCN Academy of Environmental Law to better define their collaboration within the IUCN Environmental Law Programme and to jointly prepare a fundraising plan.

A short statement describing the relationship between IUCN and the Academy and agreed division of activities should form part of the fundraising proposals made by both parties. (*Recommendation 19*)

5.3.2 Recommendations to the Environmental Law Centre and Commission on Environmental Law

1. The Environmental Law Centre should take a more proactive approach to bring Environmental Law Programme activities and publications to the attention of donors, particularly those directed to policy audiences, in order to increase the visibility of the Environmental Law Programme with donors. (*Recommendation 4*)
2. The Environmental Law Programme should continue to include ‘basic research’ on further development of legal concepts and instruments in environmental governance, despite its apparent lack of immediate relevance to some stakeholders. (*Recommendation 7*)
3. The Environmental Law Commission, with the support of the Environmental Law Centre, should develop and implement a business plan to strengthen communications between Commission members, and between the Specialist Groups, and the appropriate global thematic programmes and regional offices, as well as to strengthen its membership to optimize Commission inputs to the next Intersessional Programme, including the planning process. (*Recommendation 8*)
4. The Commission leadership should work with the Centre to identify the Specialist Groups and Joint Task Forces *that are needed to deliver the next Intersessional Programme* and assign them higher priority to receive IUCN core resources on the basis of their objectives and workplans.

Since this recommendation touches on the statutory relationship between the Commissions and the Secretariat, and may also be relevant to other Commissions, the Director General and Council may wish to consider developing an MoU on a new relationship between IUCN core support to Specialist Groups and the targeting of their objectives and workplans to support the IUCN Programme. (*Recommendation 9 – also addressed to IUCN leadership*)

5. The Environmental Law Centre should provide legal officers as focal points only for Commission Specialist Groups and Task Forces that are working on agreed priorities and outputs within the next Intersessional Programme.

Other Commission groups would continue to receive administrative support from the Secretariat. (*Recommendation 10*)

6. Formal Terms of Reference should be agreed between the Commission Chair and Director of the Environmental Law Centre for the positions of Commission Liaison Officer, and for Specialist Group Focal Points within the Centre to ensure a more effective liaison function and support to Commission Specialist Groups. (*Recommendation 11*)
7. For the next Intersessional Programme, the Environmental Law Programme and associated annual workplans should have more focus on fewer priorities. (*Recommendation 12*)
8. The Environmental Law Programme should continue to support the environmental law work of the regional programmes by including activities and knowledge products relevant to regional priorities and to capacity building in environmental law. (*Recommendation 13*)