

IUCN COMMISSION ON ENVIRONMENTAL LAW BYLAWS 2005

I. NAME

IUCN Commission on Environmental Law (CEL).

II. DEFINITIONS

In these Bylaws, unless the context or the subject matter otherwise requires:

1. “CEL” means the IUCN Commission on Environmental Law.
2. “Chair” means the Chair of CEL.
3. “Council” means the IUCN Council.
4. “Deputy Chair” means the Deputy Chair of CEL appointed under Regulation 73.
5. “IUCN” means the International Union for Conservation of Nature and Natural Resources also known as The World Conservation Union.
6. “Legal Adviser” means the Legal Adviser appointed under Regulation 85ff.
7. “Member” means a Member of CEL.
8. “Region” means the Regions as defined by the Statutes.
9. “Regulations” means the Regulations of IUCN as amended on 16 November 2004.
10. “Statutes” means the Statutes of IUCN as amended on 24 November 2004.
11. “Steering Committee” means the Steering Committee of CEL appointed by the Council under Regulation 73.
12. “Steering-Committee Member” means a Steering Committee member appointed by the Council under Regulation 73.
13. “World Congress” means the IUCN World Conservation Congress.
14. “Mandate” means the CEL Mandate determined by the World Congress under Article 74 of the Statutes and Regulation 69.
15. “Programme” means the IUCN Programme approved under Article 20(e) of the Statutes and Part II of the Regulations.
16. Words importing masculine gender include the feminine gender.
17. Words importing singular number include the plural number and *vice versa*.

III. OBJECTIVES OF CEL

1. The functions of CEL are set out in Article 75 of the Statutes.
2. The Goals and Objectives of CEL are defined in the Mandate, which is annexed to these Bylaws (Annex 1).
3. CEL shall fulfill its Mandate as determined by the World Congress.
4. In order to fulfill its Mandate CEL may:
 - (1) initiate, promote and support legal research;
 - (2) provide assistance to the IUCN Environmental Law Centre (ELC) in supporting the Environmental Law Information System (ELIS) and ECOLEX, as well as in monitoring developments, both of international and national law including treaties, legislation, custom and jurisprudence;
 - (3) propose and, where appropriate, assist in drafting legal instruments at the national, regional or global level;
 - (4) promote and assist in the development of soft law instruments;

- (5) monitor the initiatives of other institutions in the field of environmental law and policy and provide input from an IUCN perspective, as appropriate;
- (6) advise on the legal implications and aspects of initiatives taken, and issues addressed, by IUCN components and programs;
- (7) coordinate activities with other components and programs of IUCN;
- (8) assist and advise the ELC on activities related to the provision of services to developing countries, in the field of environmental legislation;
- (9) reflect a geographically representative international network of independent volunteer experts.

IV. CEL MEMBERSHIP

1. CATEGORIES OF MEMBERS

There shall be four categories of members:

(1) Senior Members.

Qualified and experienced lawyers, or experts with significant relevant experience, appointed by the Chair on recommendation of the Steering Committee.

(2) Corresponding Members.

CEL focal points appointed by the Chair for one or more States or institutions.

(3) Junior Members.

Qualified lawyers under 30 years of age or law students undertaking post graduate studies appointed by the Chair on recommendation of the Steering Committee.

(4) Honorary Members.

Highly qualified and distinguished lawyers who have made an outstanding lifelong contribution to environmental law appointed by the Chair on unanimous recommendation of the Steering Committee.

2. APPOINTMENT OF CEL MEMBERS

Members of CEL shall be appointed in accordance with Regulation 72ff as follows:

- (1) Candidates for membership may be nominated by the Chair or any Steering Committee Member.
- (2) Candidates should be endorsed by an Honorary or Senior Member who is reasonably acquainted with his or her qualifications and experience.
- (3) Candidates must provide a *curriculum vitae*, copies of any relevant publications and articles and any additional information requested by the Chair.
- (4) Members of the Steering Committee should make a recommendation to the Chair on each candidate.

- (5) Membership should reflect gender and geographical balances.
- (6) The Chair may appoint advisors and consultants to assist in the work of CEL by means of their special knowledge and skill.
- (7) The Chair and the Steering Committee shall periodically review the contribution of Members to CEL and may take any appropriate action, including the revocation of membership.

3. OBLIGATIONS AND RIGHTS OF CEL MEMBERS

Members are expected to:

- (1) provide pro bono assistance to deliver the Programme;
- (2) assist CEL to promote and strengthen environmental law and policies in their countries;
- (3) monitor national and regional legislation and emerging environmental legal issues and report significant developments to the ELC;
- (4) donate publications and articles to the ELC library;
- (5) respond to requests to participate in undertaking specific national and/or international projects;
- (6) attend meetings and conferences and deliver presentations as requested by the Chair;
- (7) conduct themselves ethically and professionally.

Members have the rights set out in the Statutes, Regulations and Resolutions of the World Congress.

V. GOVERNANCE OF CEL

1. OFFICERS OF CEL

- (1) The officers of CEL shall consist of:
 - (a) the Chair, elected by the World Congress, in accordance with the Statutes;
 - (b) the Deputy Chair, nominated by the Chair and approved by the Council in accordance with the Statutes;
 - (c) the Steering Committee Members, nominated by the Chair and approved by the Council; and
 - (d) other officers appointed in accordance with the Statutes and Regulations.

2. STEERING COMMITTEE

- (1) In accordance with Regulation 78, the Chair, assisted by the Steering Committee, shall lead the activities of CEL.
- (2) Composition and Functions:
 - (a) The Steering Committee shall consist of the following:

- (i) the Chair;
 - (ii) the Deputy Chair;
 - (iii) the Steering Committee Members;
 - (iv) the Head of the Environmental Law Programme (on an *ex officio* non voting basis); and
 - (v) the Legal Advisor to the IUCN (on an *ex officio* non voting basis).
- (b) The Steering Committee may make its own policy, procedures and rules and shall operate within the bounds of the Mandate and Programme.
- (c) The Steering Committee may establish an annual work plan, which will be made available to all Members.

(3) Meetings

- (a) The Steering Committee shall meet at least once a year.
- (b) The Chair may convene a meeting of the Steering Committee at any time, or on the request of two thirds of the members of the Steering Committee.
- (c) Notice of meetings of the Steering Committee shall be circulated to its members at least forty (40) days in advance.
- (d) A majority of the members of the Steering Committee shall constitute a quorum. In the event that a quorum is not present at a duly convened meeting of the Steering Committee, draft decisions may be prepared by those present and circulated to its members for decision by email ballot on each item.
- (e) Summary minutes of each meeting of the Steering Committee shall be provided by the Chair to the members of the Steering Committee as soon as possible after the meeting.
- (f) Except where the Statutes and Regulations require otherwise, decisions by the Steering Committee shall be made by a simple majority of its members present and voting.
- (g) Each member of the Steering Committee and the Chair shall be entitled to one vote, and, in the case of a tied vote, the Chair or, in the Chair's absence, the chair of the meeting, may cast the deciding vote.
- (h) For the purpose of decisions, voting shall have the same meaning as the Statutes and Regulations.
- (i) The Chair or the Steering Committee may request other Members to attend its meetings as observers.
- (j) Decisions may be taken by mail ballot at the request of the Chair.

3. EXECUTIVE COMMITTEE

There shall be an Executive Committee consisting of:

- (1) the Chair;
- (2) the Deputy Chair;
- (3) a nominated member of the Steering Committee, and
- (4) the Head of the Environmental Law Programme, on a non voting *ex-officio* basis.

The function of the Executive Committee shall be to implement decisions of the Steering Committee between its meetings. Actions of the Executive Committee shall be reviewed at the following meeting of the Steering Committee.

4. SPECIALIST GROUPS

On the advice of the Steering Committee the Chair may establish Specialist Groups in accordance with Regulation 79.

The Steering Committee will adopt a policy on specialist groups, which will be annexed to these Bylaws (Annex 2).

5. OTHER COMMITTEES

The Chair may establish other committees with such responsibilities as the Chair and the Steering Committee may deem appropriate.

VI. PARTNERSHIPS AND COLLABORATION

The Steering Committee will adopt a policy on partnerships and collaboration, which will be annexed to these Bylaws (Annex 3).

VII. GENERAL

1. KNOWLEDGE MANAGEMENT

CEL shall use innovative, cost-effective and appropriate tools for the sharing of information and the management of knowledge in close cooperation with the ELC.

2. RECOGNITION OF OUTSTANDING ACHIEVEMENTS

The Chair may, with the support of the Steering Committee, nominate persons or organizations for the conferment of awards for achievements in the field of environmental law and policy, in accordance with Regulation 76.

3. AMENDMENTS

- (1) These Bylaws may be amended at any meeting of the Steering Committee by a special resolution passed by at least a two-thirds (2/3) majority of the Steering Committee members. Notice of the proposed amendments shall be circulated to all the Members entitled to be present at meetings of the Steering Committee at least forty-five (45) days in advance, and shall be accompanied by a draft of the proposed amendments.
- (2) Annexes, except for the Mandate, can be amended by the Steering Committee by a simple majority of its members present and voting.

VIII. TRANSITORY PROVISIONS

Memoranda of understanding existing at the time of the adoption of these Bylaws will be reviewed in the context of these provisions, especially those under Annex 3.

CEL MANDATE AS DETERMINED BY THE WORLD CONGRESS 2005-2008

1. Mission

To advance sustainability through the development of legal and policy concepts and instruments, and through building the capacity of societies to develop and implement environmental law and policy, in furtherance of the IUCN Mission.

2. Goals

To influence, encourage and assist societies throughout the world toward attaining conditions where:

- a) International and national laws, policies and institutions have evolved through the development of ethical and legal concepts, instruments and synergies to advance sustainable development.
- b) In every country, governments and stakeholders have the capacity to actively participate in the international policy debate, to implement what is agreed through coordinated policies, laws and institutions that respect the rule of law, and to ensure effective compliance and enforcement.
- c) In every country, governments and stakeholders have ready access to knowledge and information on laws and policies relating to sustainable development, including the conservation of nature and natural resources.

3. Objectives

CEL undertakes its Mission primarily through engaging its legal and policy expertise to:

- a) Engage members and partners to create robust knowledge networks.
- b) Advise governments and stakeholders at all levels on how to establish and employ law and policy to ensure that any use of natural resources is equitable and ecologically sustainable.
- c) Innovate and promote new or reformed ethical and legal concepts and instruments that conserve nature and natural resources and reform patterns of unsustainable development.
- d) Build the capacity in all regions to encourage, establish, implement and enforce environmental law effectively.
- e) Provide education, information and knowledge on law and policy necessary to effectively achieve its Goals.

4. Priorities

CEL implements its Objectives through programme priorities, each of which will be addressed by the CEL membership, its network of collaborating centres of environmental law and partners, the IUCN Academy of Environmental Law and the staff of the IUCN Environmental Law Centre (ELC) in an integrated way:

- a) *Strengthen Specialist Groups* – Strengthen the use of Specialist Groups to advance and implement the IUCN Programme with a particular emphasis on priority thematic areas

including biodiversity loss, climate change and energy, coastal and marine, desertification and natural resource management, ecosystem protection, protected areas, soil degradation, freshwater and wetlands, and priority cross cutting themes such as indigenous peoples issues.

- b) *Recognize collaborating centres of environmental law* – Continue to recognize and support collaborating centres of environmental law and to collaborate with these centres and other partners in delivering the IUCN Programme, as appropriate.
- c) *Support the IUCN Academy of Environmental Law* – Support and promote the IUCN Academy as the world’s leading network of academic institutions and individuals in support of the IUCN Mission and Programme.
- d) *Provide technical assistance* – Collaborate with all components of IUCN and its partners to develop national or local legislation and policy in support of the IUCN Mission and Programme and means for its implementation.
- e) *Promote ‘good governance’ and the rule of law* – Work with governments, UN institutions and other stakeholders to encourage and promote ‘good governance’ and institutions to respect the rule of law, including through making best use of IUCN’s UN observer status.
- f) *Support the Judiciary* - Work with the judiciary and relevant institutions, both international and national, to support its capacity to enforce and develop the rule of law and engage in environmental dispute settlement, in co-operation with others.
- g) *Promote synergies among MEAs* – Work with the secretariats of priority multilateral environmental agreements, governments and stakeholders, and with other conventions, agreements and processes to identify and promote synergies amongst conventions and the IUCN Mission and Programme.
- h) *Strengthen legal foundations of conventions* - Work with IUCN Commissions and Specialist Groups in strengthening the implementation, compliance and enforcement of priority conventions including the World Commission on Protected Areas (the World Heritage Convention), and the Species Survival Commission, (Convention on International Trade in Endangered Species) etc.
- i) *Promote and enhance International legal instruments* - Advance the IUCN Draft Covenant on Environment and Development, in coordination with the Earth Charter, further promote the Aarhus Convention, the African Convention and the Alpine Convention and provide expertise to develop or enhance new instruments such as those on environmental impact assessment, prior informed consent, persistent organic pollutants , etc.

5. Expected Results

CEL will contribute to achieving the Intersessional Results included within the IUCN Environmental Law Programme Component Programme Plan 2005-2008.

6. Structure and Organization

In order to implement these objectives during 2005-2008, CEL will enhance its structure under the CEL Bylaws and IUCN Statutes and Regulations, with the following priorities:

- a) Ensure gender balance and full geographic representation from all regions on the Steering Committee.

- b) Ensure that CEL actively recruits members to provide CEL expertise globally and in all regions on priority thematic areas and cross cutting themes of the IUCN Programme.
- c) Create a network of Specialist Groups to address priority thematic areas and cross cutting themes and to ensure co-ordination with the ELC and other components of IUCN.
- d) Enlist CEL members in a matrix management system with the ELC secretariat to ensure that the priorities are addressed in a way that integrates the full expertise and resources of the ELC and CEL.
- e) Promote regional implementation of the IUCN Programme by entering into agreements with partners, including recognized collaborating centres of environmental law, as appropriate.
- f) Integrate CEL experts in information technology and the Internet with the work of the ELC, including its work on ECOLEX.
- g) Establish a written integrated strategic plan for the IUCN Environmental Law Programme, ensuring effective collaboration between CEL, other Commissions, the ELC and other components of IUCN.
- h) In pursuing its Mandate, liaise closely with other Commissions and integrate its work within the IUCN Programme.

CEL POLICY AND GUIDELINES ON SPECIALIST GROUPS

1. Establishing Specialist Groups

- 1.1 The Chair, in consultation with the Steering Committee, may establish a Specialist Group.
- 1.2 In deciding whether to establish a Specialist Group, the Chair must take into account synergy with the Programme, including the priority and cross-cutting themes, and the work of other Commissions.
- 1.3 The Chair, in consultation with the Steering Committee will approve the terms of reference and set the strategic direction for the Specialist Group.

2. Chairs and Co-Chairs

- 2.1 The Chair may appoint a Steering Committee member to coordinate a Specialist Group (the Coordinator).
- 2.2 The Chair may appoint a Specialist Group Chair and Co-chair and in doing so shall take into account the need to reflect gender balance and regional representation.
- 2.3 The Specialist Group Chair and the Coordinator of the Specialist Group will be responsible for preparing an annual work plan and budget which must be submitted to the Chair for approval.
- 2.4 Any significant variations in the work plan or budget are subject to the approval of the Chair.

3. Membership

- 3.1 The Specialist Group may consist of lawyers and other experts.
- 3.2 The Specialist Group Chair must be a lawyer or a person with relevant knowledge and experience in the field.
- 3.3 A Specialist Group should develop its own membership criteria.
- 3.4 Members may not belong to more than two Specialist Groups at the same time without the approval of the Chair.

4. Structure

- 4.1 The Specialist Group should establish a Management Committee consisting of its Chair, Co-Chair (if there is one) and a small number of the group members.
- 4.2 The Specialist Group Chair must obtain the written approval of the Chair before seeking or receiving funds.
- 4.3 A Specialist Group must operate in an open and transparent manner and the Management Committee is responsible for ensuring proper financial accountability.
- 4.4 A Specialist Group is a knowledge network that must work in an inter-disciplinary and inter-commission manner.

5. Reporting

5.1 The Specialist Group Chair must report to its coordinator, at approximately six month intervals on its activities.

5.2 The coordinator must report to the Steering Committee annually.

6. Links with IUCN

6.1 The Head of the Environmental Law Programme, in consultation with the Chair, should appoint an ELC legal officer as a focal point for each Specialist Group who will be responsible, among other things, for posting materials on the Environmental Law Programme website.

6.2 The Specialist Group must keep the legal officer fully informed of its activities.

7. Expiry

A Specialist Group will cease to exist when:

7.1 the term of office of the Steering Committee expires

7.2 it fulfils its terms of reference; or

7.3 the Chair, on the advice of the Steering Committee, decides to dissolve it.

8. Guidance

If any issue arises which cannot be resolved by the Specialist Group, the Specialist Group Chair shall ask the Coordinator for guidance.

CEL POLICY ON PARTNERSHIPS AND COLLABORATION

1. Principles

- (a) CEL welcomes partnerships with governments and governmental agencies, intergovernmental organizations, national and international NGOs, universities and other similar institutions of higher learning, private legal entities with social and environmental aims and other organisations who demonstrate a long-term commitment to the goals and objectives of IUCN.
- (b) Partners should not pursue objectives or undertake actions that may cause a conflict of interest with the objectives and activities of CEL.
- (c) Partners that are not IUCN members should be encouraged to apply for IUCN membership.

2. Mechanisms

- (a) The Chair will determine on a case-by-case basis the most appropriate means of carrying out the collaboration or partnership.
- (b) Only the Chair or a member of the Steering Committee authorized in writing by the Chair can negotiate and sign Memoranda of Understanding on behalf of CEL or authorize the use of the Commission's logo.
- (c) Memoranda of Understanding entered into by CEL automatically terminate at the end of the intersessional period for which the Chair has been elected.
- (d) Any ambiguity in the interpretation of Memoranda of Understanding signed by CEL will be resolved in conformity with the provisions of the Statutes and Regulations, Programme and Mandate.