

STRATEGIC REVIEW
OF THE
IUCN ENVIRONMENTAL LAW
PROGRAMME AND CENTRE

FINAL REPORT

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EXECUTIVE SUMMARY

The strategic review of the Environmental Law Programme (ELP) and the Environmental Law Centre (ELC) was conducted in November 2006 - April 2007. Its objectives were to assess the Programme in terms of its relevance, efficiency and impact, and to review the operations of the Environmental Law Centre as the organizational unit that is responsible for delivering the Environmental Law Programme in collaboration with the Commission on Environmental Law (CEL). In addition, the review was asked to pay special attention to the on-line legal information service, ECOLEX which is run by a partnership between IUCN, UNEP and FAO; and the relationship with the IUCN Academy of Environmental Law – both of which require strategic decisions from IUCN in 2007. The overall purpose of the review is to provide analysis, recommendations and options for renewal and change.

The review team visited IUCN Headquarters in Gland, Switzerland, the ELC in Bonn, Germany, and the IUCN Academy of Environmental Law in Ottawa, Canada. In all, 67 interviews were conducted with stakeholders during the site visits and by phone. These were with IUCN staff at headquarters, ELC and regional offices; CEL leaders; IUCN framework donors and German government authorities; ECOLEX partners in UNEP and FAO, and the Chair and Co-Directors of the IUCN Academy of Environmental Law. In addition, the team had access to ELP publications, internal documents and to the programme planning and monitoring reports on the IUCN Knowledge Network.

The review found that the internal management of human resources, finances and programme administration in the Environmental Law Centre are all good. However, the Centre suffered from high staff turnover in 2005-2006 on the legal side and an associated slowdown in the development of new projects for the ABC List. The Centre has a good financial performance record but unless the situation changes, the financial outlook is less positive.

The core budget allocation to the Environmental Law Centre (ELC) has been steadily decreasing since 2001 and cost recovery is either static or declining. There is little room to manoeuvre as 75% of expenditures are relatively fixed costs for staff and support services despite free office accommodation and an annual subvention to offset taxes from the federal German Government. Donor support to environmental law projects is low and there is high dependency on too few B projects, thus representing financial risk for IUCN. If this were the whole story, the review might have concluded that the Centre is not likely to be cost-effective in the future, but there are important mitigating factors.

IUCN has no separate legal status in Germany and has been operating as a programme within a German foundation (KSSF) for 37 years. This situation presents both risks and opportunities for IUCN. KSSF (on behalf itself or of ICEL or IPA) provides and charges for financial, human resource, procurement and ICT services and there are arrangements between ICEL and IUCN for sharing documents and intellectual property. Steps were taken in 2004 to establish an independent status for IUCN in Germany but were put on hold.

Another unusual aspect of the Centre is that the Information and Documentation Unit with responsibility for maintaining the ELIS Information System, giving support to the on-

line information service ECOLEX, and the providing communications and other support services to the Centre, has almost as many FTEs as the legal team and the management unit. This distorts any analysis of the Centre's budget based on ratios of staff to budget since the information and documentation staff has not been able to produce any significant activity revenue to offset their core costs.

ECOLEX appears under-resourced and is losing whatever competitive edge it has.

This is despite the annual in-kind and cash support that are made by each of the three partners (IUCN, UNEP and FAO). ECOLEX has a low user base and suffers from low visibility within IUCN. In addition to being under-funded, ECOLEX faces the problems that it is supply-driven rather than demand-led and it has major competitors which are better funded.

The ELIS database for ECOLEX migrated to a new web platform in 2006 and ECOLEX will migrate in 2007. It is expected that the new functionality will increase the usage of ECOLEX. There has been no evaluation of ECOLEX in terms of its market penetration and limited web statistics are available. Within the scope of this review we were unable to undertake the in-depth technical, financial and market competitiveness review that IUCN and its partners need to make strategic decisions about the future of ECOLEX. We recommend that an evaluation be commissioned in 2007.

The review examined the issues around IUCN's legal situation in Germany. The latest agreement between IUCN and KSSF was signed in 1999 and was regarded as interim for two years pending IUCN obtaining legal status in Germany. IUCN is trying to obtain International Organization (IO) status in Germany with associated tax privileges, similar to that which it enjoys in Switzerland. It is not clear that this will happen but there is a political window of opportunity between now and June 2008 when the CBD COP9 is hosted by Germany in Bonn. The Environmental Law Centre is assisting the Ministries involved to prepare for the conference and is giving IUCN greater visibility. If IUCN does not obtain IO status by 2008 and stays in Germany, it should reconsider the options of becoming either a German Foundation or Not-for-Profit Association.

Locating the Environmental Law Centre closer to other global thematic programmes in headquarters would strengthen the interactions between them for the benefit of all global thematic programmes. The question of relocating the Environmental Law Centre to IUCN headquarters is linked to both its future legal status in Germany and the opportunity presented by the new headquarters building in Gland. It should also improve the quality of policy positions developed by IUCN through stronger collaboration with the Environmental Law Programme, and thus better align the IUCN Programme, especially in terms of environmental governance and human rights perspectives.

The present office building in Bonn can house more staff and relocating more staff to Bonn is an option for IUCN. There appears to be no cost advantage to relocating the Environmental Law Centre to Gland. If anything, the opposite is true. However there are other considerations in the relocation question, which relate to IUCN having possible future IO status in Germany and thus within the European Union (and hence eligible for more work with the EC); and potential significant funding from Germany.

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 has an important role to play in providing expertise to meet the demand of global thematic and regional programmes. But it is not well equipped to do this since its regional presence is uneven especially in Africa and Asia, and it appears to be spread over too many interest groups for optimal support to IUCN's programme. The 1999 Review of Commissions suggested that these problems extend beyond CEL to other Commissions.

The Director General and the Chairs of the Commissions should work together to strengthen the programme priorities, operational structure and membership of the Commissions, including the Environmental Law Commission, to support the IUCN Programme 2009-2012. The review provides a time line suggesting how these inter-related decisions can be sequenced to build a coherent strategy for the future of the Programme and Centre.

Acronyms

ABC list	List of projects at different stages of development – A: a project idea; B: a proposal submitted to one or more donors; C: a project being implemented with the support of one or more donors
ABS	Access and Benefit Sharing
BMU	German Ministry of the Environment, Nature Conservation and Nuclear Safety
BMZ	German Ministry for Economic Cooperation and Development
CBD	Convention on Biological Diversity
CEESP	Commission on Environmental Economic and Social Policy
CEL	Commission on Environmental Law
CIESIN	Center for International Earth Science Information Network
CITES	Convention on the International Trade of Endangered Species of Wild Fauna and Flora
COP	Conference of the Parties
DGIS	Directorate General for International Cooperation (The Netherlands)
ECOLEX	Environmental law database sponsored by IUCN, FAO and UNEP
ELC	Environmental Law Centre
ELIS	IUCN's Environmental Law Information System
ELP	Environmental Law Programme
ELS	Environmental Law Services
FAO	Food and Agricultural Organization
FAOLEX	FAO's database of national food and agriculture legislation
FTE	Full time equivalent
ICEL	International Council for Environmental Law
ICT	Information and communication technology
IPG	International Public Good
IUCN	World Conservation Union
KSSF	Karl Schmitz Scholl Fund
MEA	Multilateral Environment Agreement

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 the Review

This external review of the Environmental Law Programme (ELP) and Centre (ELC) is part of the regular strategic review cycle of IUCN and has been requested by the Acting Director General of IUCN and the Director of ELC. The review has the broad objectives of assessing the ELP Programme from the perspective of a range of performance criteria including relevance, effectiveness, and impact and examining the ELC Centre as the organizational unit responsible for the programme from the perspective of effectiveness, efficiency and sustainability. The review has been asked to also examine the Environmental Law Library (now called the Information and Documentation Centre), the on-line legal service, ECOLEX; and relationships with the IUCN Environmental Law Academy and Partner Centres. The overall purpose of the review is to provide analysis, recommendations and options for the purpose of renewal and change.

The specific objectives of the review are to:

- Assess the current programmatic focus and niche (relevance); modes of delivery (effectiveness, efficiency) and suggest where programmatic focus and modes of delivery should change with a particular emphasis on working with Global Thematic Programmes and the IUCN Regions;
- Assess the organizational model and operational systems, including office location and business plan, that underpin the viable delivery of the Environmental Law Programme;
- Assess the role and viability of the Law Library-ECOLEX, and the Academy of Environmental Law (at the University of Ottawa) in delivering the Environmental Law Programme from the perspective of IUCN;
- Develop options and scenarios based on the above to guide the future development of the Environmental Law Programme.

The full terms of reference are given in Annex 1.

The review was limited in two areas. It was unable to assess the impact of the ELP Programme except in a limited way with respect to its interactions with other global thematic programmes. Part of the problem was limited time and resources available to the review team. More importantly, the Programme has no system in place for specifying anticipated outcomes or impacts and providing indicators by which progress towards them could be measured. It is not unusual in this respect and all IUCN global thematic programmes are expected to have better measurable indicators for the next Intersessional Programme. The other methodological limitation was that we were unable to interview IUCN Members and Partner Centres.

1.2 Methodology

The evaluation team consisted of Anne Whyte (Mestor Associates: team leader and environmental specialist); Robert Auger (Mestor Associates: international law specialist); and Christian Laufenberg (IUCN: Programme Officer in Office of Director Global Programme). The team worked from November 2006-February 2007 with site visits to IUCN headquarters in Gland, Switzerland 26 November-2 December 2006; to ELC in Bonn, Germany 3 -8 December 2006; and to the IUCN Environmental Law Academy Secretariat, Ottawa, Canada on 15 November 2006. The draft report was reviewed by IUCN in March-April and this revised report was finalised in May 2007.

The review was designed to respond to the questions posed in the Review Matrix (Annex 2). Semi-structured Interviews were held with representatives of the key stakeholder groups:

- Senior managers, programme and administrative staff in IUCN headquarters;
- Director, present and former legal officers and staff in ELC;
- Regional Directors and key staff in the IUCN Regional Offices;
- Chair, Vice Chair, Specialist Group Chairs and other leaders in the Commission on Environmental Law;
- IUCN Framework donors and German government donors;
- Chair and Co-Director of IUCN Academy of Environmental Law;
- ECOLEX Partner Organizations and others.

In all, 67 individual interviews were held, of which 35 were face-to-face and 32 were by telephone. All present members of Centre staff were interviewed. The complete list of interviewees is given in Annex 3.¹ Responses to questions were content analysed and compared across individuals and by stakeholder group.

The results of interviews were also cross-checked by document review, including internal planning, administrative and monitoring and evaluation reports and publications produced as part of the ELP Programme's outputs. The main documents consulted are listed in Annex 4. In particular, the ELP Workplans for each year 2005-2008 were examined for their contributions to the 26 Overall Results foreseen in the Intersessional Plan 2005-2008. However, there are limitations to the documentation available. The CEL Specialist Groups which have been newly constituted after 2004 are in the process of developing their workplans and the CEL Strategic Plan is not yet finalized. Background documents on earlier reviews of the Environmental Law Centre prior to 2004 were provided after the review had been completed and the draft report written.

While the review is as evidence-based as is possible, evaluations are inevitably limited in the evidence available within a given timeframe. They also rely on the evaluators' interpretation of the evidence, especially in developing future options and recommendations. For these, the review team accepts entire responsibility.

¹ The Review Team would like to acknowledge with gratitude the contribution to this review made by all interviewees, especially the Director and staff of ELC who gave generously of their time and knowledge.

1.3 The Environmental Law Programme and the Centre: some history and context

While it may seem self-evident, our interviews found that within IUCN there is some confusion between ELP – the Environmental Law Programme, and ELC – the Environmental Law Centre which is the organizational unit and cost centre within the Secretariat that is responsible for administering and partly implementing the programme. People commonly referred to one when they meant the other. The distinction between the two is even more lost to stakeholders outside of IUCN. There is also questioning and uncertainty among managers in IUCN headquarters about the arrangements relating to IUCN-ELC operations in Germany.

One of the challenges for any review of the Environmental Law Programme is that it is designed as a seamless collaboration between the Commission on Environmental Law (CEL) and the Environmental Law Centre. The latter is *directly* responsible for some results under the Intersessional Plan and is *indirectly* responsible for delivering other results through its provision of adequate secretariat support to CEL Specialist Groups which bear the primary responsibility. But the assignment of responsibility to either the Centre (ELC) or the Commission (CEL) or both is not always as clear as it might be. Thus although the Review Terms of Reference include the Environmental Law Programme and Centre, they do not include CEL which as a Commission falls under another review process.²

Historically the Commission came first. It was founded in 1960 as the Committee on Legislation and Administration, which evolved into the Commission on Legislation. The Commission's office was established in Bonn and was staffed with one Legal Officer. The Commission office was reconstituted in 1970 by the IUCN Executive Board into the Environmental Law Centre and became an out-posted unit of IUCN headquarters, reporting to the IUCN Director General instead of to the Commission Chair and receiving core budget support.³ Once the former Commission office became part of the IUCN secretariat, it needed a legal personality in Germany to operate – to hire staff and to receive funds from IUCN and elsewhere. It was decided to operate the Centre through a German foundation (the Karl Schmitz Scholl Fund - KSSF) whose Vice-Chair was also the Commission Chair, and whose mandate is to support the IUCN Environmental Law Programme and ICEL (International Council for Environmental Law).

Thus in 1970 KSSF⁴ became the legal employer of IUCN staff⁵ and the administrator of ELC's funds with responsibility for procurement, bookkeeping and audit – roles that it continues to play for IUCN today. The arrangements include separate accounts and

² We faced a similar conundrum from the other side of the glass when we conducted the External Review of Commissions in 2004.

³ Lausche, B.J., 2007, Weaving a Web of Environmental Law: Contributions of the IUCN Environmental Law Programme; Chapter 9, *in press*

⁴ According to the 1999 Agreement between KSSF and IUCN, KSSF either provides these services on behalf of itself or on behalf of other co-located partners including FUST and IPA.

⁵ Employment contracts include the following “KSSF for IUCN, signed by the Director of ELC, countersigned by the Vice Chair of KSSF for IUCN”

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>
1.1 <i>Personnel</i>	<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
1.2 <i>Bank accounts</i>	<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 IUCN and KSSF. The bank accounts will be operated through a process of joint signature by two authorized signatories, one from each organization, whereby certain combinations remain excluded.</p> <p>IUCN does recognise that liabilities on these accounts are IUCN liabilities and possible deficits resulting from ELC operation are the responsibility of IUCN</p>
1.3 <i>Other services in interim period</i>	<p>KSSF agrees to conclude, on behalf and in agreement with IUCN, the contracts necessary for the management of the new premises of IUCN in Bonn, until such time as IUCN itself can take over these commitments. This includes insurance related to the building, maintenance of the premises, and generally all contracts necessary as a result of the premise agreement concluded between IUCN and the German Government.</p>
2.1 <i>Shared services</i>	<p>KSSF will:</p> <ul style="list-style-type: none"> - provide the information systems manager.... - provide the personnel necessary to operate the accounting system of ELC - also continue to ensure an annual audit of such system as a contribution to IUCN
3 <i>Ad hoc services</i>	<p>KSSF agrees to provide certain services to the ELC upon request and at cost within the limits of its personnel capabilities. Such services include typesetting, offset printing and photocopying, clerical assistance.</p>

2.1.1 Human resources management

From a human resources management perspective ELC presents two contradictory findings:

- Leadership and management *within* ELC is extremely good;
- Administration of the Centre by IUCN presents some risks for the organization.

Individual interviews with current staff members showed very high satisfaction with the Centre's management and organization, and with their jobs including their delegated authority and responsibilities, except for the issue of salary levels. In particular, staff have strong positive perceptions of their managers and of their co-workers and universally describe a strong team spirit in the Centre – which they fear will be lost if it is relocated to IUCN headquarters.

There are strong positive assessments of the management style of the current Director that are widely shared among Centre staff. He is praised for his ability to encourage teamwork and to delegate authority while making the necessary strategic decisions as leader. On assuming the position in 2005, the Director put human resources management as his first priority and this has clearly paid off in the job satisfaction of staff. Credit must also be given to the Finance and Human Resources Officer whose experience and knowledge of IUCN administrative policies and personal qualities have contributed significantly to the efficient and positive atmosphere that pervades the Centre.

Centre staff members have individual performance agreements and annual workplans that have been discussed between them and their supervisors and are familiar with the conditions of service and staff policies under which they work. They feel that they can go to their supervisors for advice and that their workloads, while heavy, are not unfair from one staff member to another. The review team found human resources management *within* the Centre to be good. The problems lie more beyond the authority of the Director of the Centre.

Low salaries and the possible relocation of the Centre to IUCN headquarters are the two negative aspects of their employment mentioned by almost all staff. The relocation issue has hung as a question mark over the Centre's future for many years, but the new building in Gland planned for 2009 has brought a greater sense of urgency and with it a pervading sense of job insecurity.

Historically staff in Bonn has been paid below IUCN scales for their positions but a complete job reclassification in 2004 is reported to have remedied this problem. Although the team heard hearsay reports in IUCN headquarters that staff costs in Germany were higher than in Switzerland, the Law Centre staff costs are 96% of equivalent positions in headquarters⁶. However, the financial situation of Centre staff is made more difficult than if they were located in Gland because of the higher income taxes in Germany. The German Government provides an annual grant of €50,000 in lieu of an income tax rebate on staff salaries which is accounted as project management income. In practice, we understand that this does not appear to be used to adjust the

⁶ Head, Global Human Resources

“take-home” salary of Centre staff to reach a comparable level to that of staff in headquarters.

The three legal officers are newly recruited in 2005-2006. The recent high staff turnover on the legal side is a concern for programme management because:

- New legal officers inevitably will take more time to develop new projects for funding and thus in the short term a strong ABC List for the Environmental Law Programme is more difficult to achieve.
- The legal officers, in addition to developing new projects, are asked to handle “orphan” projects left behind by departing legal officers, for which they do not necessarily have specialised training. One high profile example of this is the climate change portfolio within the Centre’s programme.

Presently all staff is employed by KSSF on behalf of IUCN. Payroll services are provided by KSSF as part of its financial services for which IUCN pays €30,000 per year. While in no way questioning the manner in which KSSF has provided these services to the Centre over many years, as a general rule it is better for staff to have IUCN as the employer of its own staff rather than their being employees of another organization, and indeed, a new arrangement based on independent status is what IUCN has long been working towards.

IUCN does not appear to have developed an exit strategy or more specifically, a fallback position for ensuring job security to its staff, if the arrangement with KSSF is discontinued for any reason.⁷ Although the present arrangement with KSSF has worked very satisfactorily for 37 years, the Review Team suggests that the time has come for IUCN to prepare for possible alternative arrangements for its operations in Germany (section 4.2).

2.1.2 Programme Management

Programme management in ELC is efficient and working according to IUCN policies and procedures. Clear Guidelines have been prepared by ELC to complement IUCN Project Operational Guidelines. Orientation has been provided for the three new legal officers in project development and management by the Director and Finance Officer. All the legal officers are working hard to develop new projects for funding by donors but inevitably there is a time-lag before new project proposals are ready. Despite the best efforts of the Director and the legal officers, the staff turnover in the legal team in 2005-2006 has some short term repercussions for the performance of ELC in programme management. In addition, the current legal team inherited an ABC List with few projects running beyond 2006.

The legal team meets monthly with the Director and Finance Officer to discuss proposals and projects and to manage the ABC List. The List is managed in-house using MS Excel before being uploaded to the Knowledge Network every two months. The legal

⁷ In addition to staff in Bonn, we are told that German nationals in the IUCN staff in the European Regional Office in Brussels also are provided for in the arrangement with KSSF

officers work well together and have been assigned clear and specific responsibilities for developing new projects; for working with the different CEL Specialist Groups; and for managing different “orphan” projects. The distribution of responsibilities and the ability to work together as a team augurs well for an effective programme management structure within the Centre. Everyone knows what their responsibilities are and that job number one is to develop a healthy ABC List.

The other part of programme management is that relating to the Information and Documentation Unit. This includes not only a library of key literature on environmental law contributed by ICEL to a joint IUCN-ICEL environmental law information programme, but also a documentation centre with holdings of the full texts and status information of more than 1500 multilateral and bilateral treaties.

Most people in IUCN headquarters are only dimly aware of the existence of the law library. It is not well integrated with the main IUCN Library system and very few people in IUCN request materials from it. The majority of requests for documents come from legal officers within the Centre and from Regional and Country Offices.

The Information and Documentation Unit is also responsible for ELIS, the IUCN Environmental Law Information System. It was originally based on a software platform called ROMULUS which was very advanced for its time and in 2006 migrated to a new web-based platform called www.ISIS.

The ownership of the documentation collection and the library in Bonn is apparently unclear to many within IUCN and our original determination was that intellectual property rights and ownership of documents was something that needed to be sorted out between the Environmental Law Centre and its co-located partners. After the draft report was submitted we were provided with an Agreement between IUCN and the International Council for Environmental Law (ICEL) that clarifies the situation⁸.

The 1998 Agreement with ICEL provides for:

1. Ownership of all databases within ELIS belongs to IUCN even when the provider of a document of information is ICEL, with the provision that ICEL may use the data on a non-exclusive basis at no cost;
2. The collection of international treaties and national legislation is owned by IUCN even where ICEL obtained the documents;
3. The collection of publications and documents on policy and law is owned by ICEL, with the exception of the materials purchased with IUCN funds which are identified in an inventory, updated annually.
4. Each partner may use the collection of the other partner for its own needs, on a non-exclusive basis at no cost.
5. IUCN-ELC and ICEL will continue to develop joint projects in the field of information with the rights to the products specified in relevant project documents.
6. Should ICEL no longer wish to maintain its ownership rights to its document collection and should IUCN express its readiness to continue maintaining it, the

⁸ The Agreement with ICEL is dated 1998 but was incorrectly referred to in comments on the draft review report as the ‘1999 Agreement’ which is the date of the Agreement with KSSF (Box 1), thus perpetuating the misunderstanding that there was only one agreement .

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

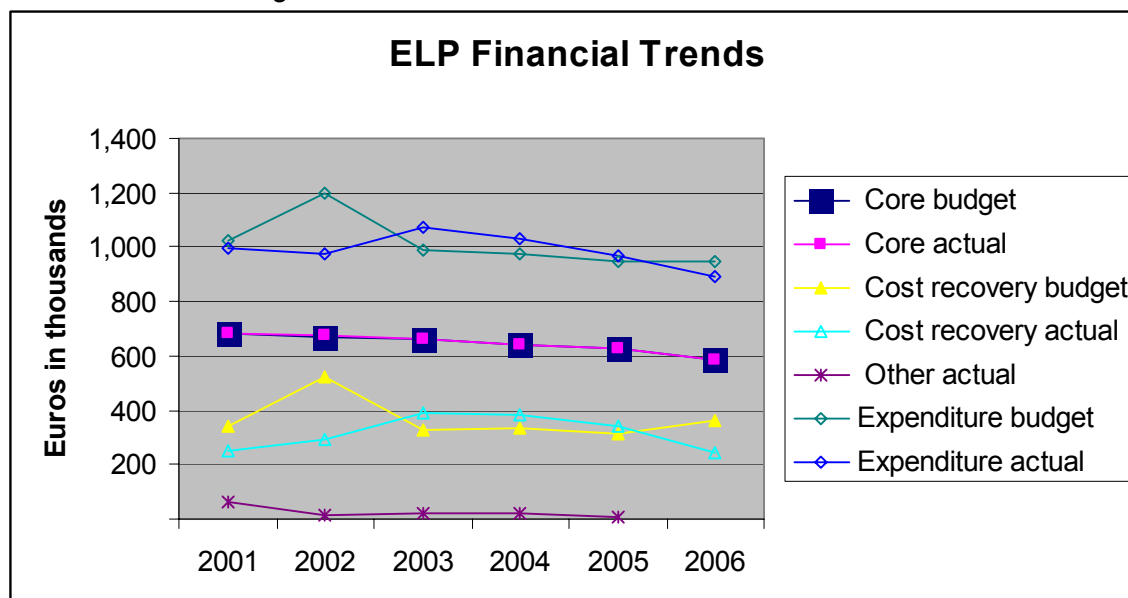
¹¹ Not all regional focal points for environmental law are trained as lawyers

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 office space to IUCN is estimated to be €155,000 per year based on the rent for the second floor which the government charges to the (IPA) (Table 1).

Table 1 Office Space in IUCN Building in Bonn

FLOOR	NUMBER OF OFFICES	AREA IN SQUARE METRES	RENTAL VALUE (€)
Ground	6	244.84	3,918
First	9*	185.05	2,962
<i>Second (rented to IPA)</i>	<i>11</i>	<i>187.45</i>	<i>3,000</i>
Third	11	187.29	2,997
Fourth	8	188.67	3,020
Whole building	46	993.3	15,897

*Plus a meeting room and kitchen

ELC presently has about 800 square metres of office space. IUCN pays about €43,000 per year for utilities and cleaning while major repairs and maintenance are provided by the German Government. In discussion with the German authorities, IUCN could post more staff in the IUCN building in Bonn, thus effecting saving elsewhere. We understand that such a move would likely be welcomed by the German Government.¹⁴

RECOMMENDATION 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.

¹³ IUCN moved into the new building in 1999. We understand that the other tenant is IPA. Before 1999 ELC was housed in the historic villa on Adenauerallee.

¹⁴ With the present configuration, the number of offices in the whole building is 46 so that approximately 50 staff could be accommodated. Discussions with representatives of the German Government indicate an interest in having more IUCN staff posted to Bonn, especially if they complemented the work of the Environmental Law Centre.

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 to the Centre, such as support for publishing, the website and the Newsletter. While other IUCN cost centres include an Information and Documentation component, in ELC that component is large compared to the total size of the Centre.

Information and Documentation staff cannot generate projects for cost recovery in the same way that the legal team can, although they are certainly trying. Thus, in the light of declining core allocations to ELC, in practice the legal team must also generate cost recovery from law projects that will underwrite not only their salaries but also those of the staff within the Information and Documentation Unit.

A division of the ELC cost centre into two or three sub-cost 'units' would allow IUCN to have better information about the costs and revenue generated by the legal team, the information and documentation team and the ECOLEX Partnership. An alternative is to

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 law projects by development assistance donors combined with the rise of regionalism within IUCN.

Prior to 2001, the Centre benefited from earmarking for environmental law activities by a number of donors. Since the IUCN agreement with the Framework Donors came into place donor earmarking for law initiatives stopped. One of those initiatives was the launch of the Environmental Law Service (ELS) in 1990 funded by Sweden (SIDA) which was designed to allow ELC to respond to national requests for assistance in advising on and drafting conservation and environmental law. The process was that requests from countries went to the Centre which then involved Commission members in the regions to do the substantive work.

There was subsequent funding from Germany (BMZ) and the Netherlands (DGIS) that supported the ELS and broadened its scope to include capacity building. However, a number of processes combined to essentially oust ELC from its previous central management role. The regionalisation policy of IUCN to build up the capacity of its regional and country offices meant that under the BMZ grants the majority of the requests for technical assistance were processed through the regional programmes.

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.

¹⁵ IUCN ELC *IUCN Environmental Law Programme Regionalization, Phase II*; May 2002. Cited in Lausche, 2007, chapter 25

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 *component* of other global thematic programmes such as Protected Areas or Forests.

Thus trying to raise project funds in which ELC is the lead cost centre is a much more difficult task in this decade than it was in previous ones. The current Director has invested much effort in the past year to visit donors with ideas and proposals and the Legal Officers are focussed on developing new proposals for funding. But all recognise that it is not easy to raise funds for environmental law projects on their own. Two areas where ELC clearly has a comparative advantage because of its location in Bonn are in Climate Change and in the preparations for COP9 of the CBD which will be hosted by the German Government in 2008. It is opportunities like these that will inevitably influence the Centre's ABC List – at least in the short term - which makes it more difficult for the Centre to develop a visionary 'second generation' global environmental law programme.

However, within the overall constraints outlined here in the donor environment, there are some actions that can be taken to increase donors' familiarity with the Environmental Law Programme and Centre. One is to ensure that representatives of the Framework Donors and others with an interest in funding governance work know about the Programme and the work of the Centre and are sent copies of the key publications and the Newsletter. These currently reach them more by chance – as donors report picking them up from the table at headquarters, rather than receiving them from the Centre.

Another important action is for the Director of the Centre to be more consistently interacting with donors, especially when the donors' meetings take place at IUCN headquarters so that he can further familiarize them with the Programme. In this case, having the Environmental Law Centre located in Bonn means "out of sight; out of mind" as far as most IUCN's donors are concerned. Except for the German donors, very few whom we spoke to said they had ever visited the Centre in Bonn.

RECOMMENDATION 4
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.

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. UNEP paid for the migration of ELIS to ELIS/WEBLIS which has provided a better platform for the ECOLEX portal.

The major time implications of the ECOLEX partnership for ELC staff are for the maintenance of the ELIS information system for treaties, policies and law literature. According to data provided by staff, ELIS requires 2.15 FTE while managing ECOLEX takes less than a quarter of one person's time, including the time of the Senior Legal Counsel as the Unit's manager.

2.3.2 ECOLEX Partnership

ECOLEX is managed for by ELC for IUCN under the terms of a formal Partnership between UNEP, IUCN and FAO that was signed in November 2001. This agreement builds on the earlier collaboration between IUCN and UNEP to develop a joint environmental law information service called ECOLEX and the FAO's experience in providing an information service on environmental law as well as food and agriculture law (FAOLEX). Under the Partnership agreement:

- ECOLEX is administered by a Steering Committee, chaired by UNEP, and composed of representatives from UNEP, IUCN and FAO. The Steering Committee is responsible for the work programmes and technical developments to the database and the website, and for the approval of workplans and financial reports;
- Each partner is the custodian for its own data set and data node and will manage and update the node according to the standards and procedures agreed by the Steering Committee;
- Intellectual property rights and copyright remain with the originating partner. UNEP, IUCN and FAO have free access to all information contained within ECOLEX for their internal use, granting each other mutual licences to use jointly created intellectual property for purposes compatible with ECOLEX objectives;
- Access to ECOLEX by external users will be free or subject to payment as determined by the Steering Committee. Royalties and other income will be used solely for ECOLEX activities;

- IUCN is responsible for hosting and administering the ECOLEX Management Unit;
- Each partner agrees to “*make every effort* to set aside an amount in cash or in kind to support ECOLEX and related activities”¹⁷ and will seek other financial resources and other partners as agreed by the Steering Committee;
- The Partnership Agreement can be mutually terminated by all partners at an agreed time or by one partner giving three month’s notice in writing to the other partners.

Overall, the Partnership Agreement is clear and is working well. The Steering Committee meets regularly and functions well as an oversight committee. Each partner takes turns to host the meeting which is preceded by a Technical Group meeting. From the minutes of the 13th meeting of the ECOLEX Steering Committee meeting held in Bonn, 8-9 March 2006, it appears that information on actions taken by each organization is shared between the partners and decisions regarding the future workplan and budget are reached by consensus. Interviews with the members of the Steering Committee support the view that the ECOLEX Partnership is based on a shared set of objectives with mutual goodwill and trust between the partners supported by a clear written agreement.

Table 2 compares the ECOLEX Partnership against criteria developed for assessing partnerships.¹⁸ It shows that the Partnership is working well at the operational level but has two main weaknesses. One is its financial base and the other, related, problem is its lack of visibility and perhaps priority at the senior management or governance levels of its partners.

In the past year, and possibly before that, none of the three partners has been able to provide the resources to ECOLEX that are needed to maintain its competitive edge in an increasingly crowded market. Both FAO and UNEP report difficulties in maintaining their databases which form the ECOLEX nodes because of a lack of dedicated staff positions. Instead they have to find resources within constrained organizational budgets to pay for outsourced consultants (FAO) or (since 2006) for qualified interns to enter court decisions (UNEP). The Steering Committee has many good ideas for strengthening the information held in ECOLEX and its functionality for users but goes away from the meeting without knowing how they will be funded. UNEP has entered into 2-3 year partnership agreements with its major donors so that funding for ECOLEX can no longer be sought from these core donors as it was previously. A proposal to fund ECOLEX has been languishing for several years without attracting funding.

The ECOLEX Management Unit prepared a workplan to the Steering Committee for 2006 that included costs for server maintenance, software, updates and harmonization of data. The migration of ELIS to WWW-ISIS was paid for by UNEP in an additional grant of €13,000. The agreed budget for running ECOLEX in 2006 was €6,000 each from FAO and IUCN and \$10,000 from UNEP, in addition to the in-kind and cash support given by each partner to maintain their own node of ECOLEX. But this leaves many desired features such as a mapping interface not yet in place.

¹⁷ UNEP-IUCN-FAO Partnership Agreement for ECOLEX November 2001, Article 2a.

¹⁸ Criteria taken from “Review of the Red List Programme Agreement”; Universalialia, May 2005

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 partners. What the vision lacks is a sense of what the demand is among potential users, what the competition is from other suppliers, how the external environment might change, and what to do about it. The vision is directed inwards to the supply capacity of the three partners – not outwards to the fast-changing environment in which ECOLEX must operate.
Clear objectives and outcomes	With the proviso noted above for the vision, the objectives are clear but the outcomes in terms of the users are not.
Clear expectations of the parties	These are clearly set out in the agreement and are understood by the parties
Scope and identity of the partnership	Clearly described in the agreement
Clear model for governance	Yes. Oversight rests in the Steering Committee which appears to work efficiently and effectively
Clear model for management	Yes. Responsibility for each node clearly lies with each partner and Management Unit hosted by IUCN has overall responsibility to Steering Committee for implementation of agreed workplan.
Capacities and funding arrangements	Major weakness of the Partnership. Steering Committee is not taking responsibility for jointly seeking external funding but rather is leaving it to Management Unit and partners are not able to commit sufficient funding from internal budgets to bring ECOLEX up to speed.
Clear process for dispute settlements and amending procedures	Yes. Contained in agreement. There are also clear statements about intellectual property rights and access rights to data bases and definitions of common property.
Clear procedures for monitoring and evaluation	IUCN-ELC has responsibility for overseeing the Management Unit and for monitoring user statistics etc. No evaluation conducted and is recommended as urgent for any decision about the future of the partnership
Rules for leaving and expanding the partnership	Rules are contained in the agreement. The partnership can be expanded by mutual agreement and left by any partner on three month's notice

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 as a tool for practising lawyers because it is neither complete nor absolutely up to date – both seen as essential to them. The main value proposition of ECOLEX is that it includes updated treaties, national legislation and court judgements which can be simultaneously cross-searched. In practice, ECOLEX cannot currently deliver on this promise although it is hoped it will be able to do so once the migration and updating are completed.

People interviewed suggested that the key competitors to ECOLEX are the MEA Secretariat websites, sites such as the Library of Congress and, at least for those who can pay, the private pay-per-view websites such as WestLaw. These operate faster and are more up to date. Interviewees also said the ECOLEX suffers from being primarily a bibliographic database, lacking a GIS link and lacking visibility on search engines like Google and Yahoo.

Our own Google searches found that searches on '*environmental treaties*' and '*environmental conventions*' did not list ECOLEX for the first few pages although they did list CIESIN (a potential partner), UNEP, FAO and even UNESCO. Other searches for particular treaties or legislation known to be in the ECOLEX database also did not appear in the first ten pages of Google searches. Thus ECOLEX is not visible on the web using the most common search engine. It is also not very visible on the IUCN website. Where users are aware of it (as appears to be so in local German universities) ECOLEX is said to receive more visitors.

These findings raise questions about whether ECOLEX is either competitive or sustainable but our overall assessment is that neither the review team nor IUCN and its partners presently have enough information on who uses ECOLEX and for what purposes to know if it is fulfilling the objective of the Partnership:

“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.”²²

For its part, IUCN-ELC has a significant investment in ECOLEX in terms of financially contributing to the development of ELIS over the past 35 years; backing its reputation as a leading source of information on environmental law with the IUCN name; and hosting the ECOLEX Management Unit. It is now time for IUCN to think about the future of ECOLEX within IUCN (section 4.1).

²² UNEP-IUCN-FAO Partnership Agreement for ECOLEX November 2001, Article 1b.

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
Programme planning in IUCN should more clearly assign responsibilities for delivering results between the appropriate unit(s) in the Secretariat and in the Commissions. An integrated programme still requires clear accountabilities for deliverables.

3.1 Analysis of the Programme

In our interviews, we heard frequently that people did not know what the staff of the Environmental Law Centre was doing with respect to delivering the Environmental Law Programme. We therefore decided to deconstruct the Programme as a starting point for examining its relevance and effectiveness in delivering results.

The Environmental Law Programme has a special responsibility with respect to the international treaties which have priority for IUCN (Box 3). These form one important axis for the ELP. The other axis is formed from the biome and other priority themes for IUCN, such as forests, water, and human rights in conservation.

There are four main outputs of the ELP Programme plus one throughput that consists of secretariat tasks such as coordination with other parts of the Secretariat and support to CEL:

- Conceptual development of law
- Generation and dissemination of knowledge
- Technical legal assistance on request from countries etc.
- Capacity building
- Coordination, meetings and project proposal preparation

BOX 3 'IUCN' TREATIES OF PRIORITY TO ELP²³

- Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES);
- Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar Convention)
- World Heritage Convention (WHC)
- Convention on Migratory Species (CMS)
- Convention on Biological Diversity (CBD)

- Convention to Combat Desertification (CCD)
- Framework Convention on Climate Change (FCCC)
- UN Convention on Law of the Sea (Part 12) (UNCLOS)

In order to compare the findings of our interviews and document review about the relevance and effectiveness of the Environmental Law Programme we transposed the programme activities and their planning budgets²⁴ listed in the Quadrennial Plan 2005-08 into a simplified programme matrix of four areas of work (containing 33 sub-categories) and the five types of outputs²⁵.

Table 3 Percent of planned budget allocations 2005-08 in the Environmental Law Programme Intersessional Plan

	CONCEPTUAL DEVELOPMENT	KNOWLEDGE GENERATION/DISSEMINATION	TECHNICAL ASSISTANCE	CAPACITY BUILDING	COORDINATION MEETINGS PROJECT DEV	TOTAL PERCENT
International treaty processes	0	5	0	0	3	8
IUCN thematic areas	7	33	4	7	6	56
Information and documentation	0	15	0	0	0	15
Support/transfer to other ELP components	0	1	0	0	20	21
TOTAL %	7	54	4	7	28	100

²³ Five "priority treaties" and three "treaties of key significance to IUCN"

²⁴ The planning budget is that listed in the Quadrennial Plan for all years and includes both the secretariat (core) funds (including staff costs) and activity (project) funds. For 2007-08 the budget is indicative (planned) rather than final so we have used percentages to show where ELP resources are expended.

²⁵ The process is far from being an exact science but we believe that the picture that emerges of planned allocation of resources is of the right order of magnitude. Sources of inaccuracy and bias include judgements made in assigning activities to categories; planned budgets that do not materialise, and large project budgets that skew the overall picture

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 is for preparing guides, handbooks and other publications. This focus on knowledge generation is recognised by stakeholders who generally gave positive assessments of the quality of the reports, guides and manuals being produced in the Environmental Law Programme (section 3.4).

The other side of the coin is that implementation of the Programme is providing very little directly in the way of technical assistance or capacity building, although their knowledge products can be used for both. Capacity building is allocated 7% of the Intersessional budget and technical assistance to countries, only 4%. Thus, the Programme is providing the tools for capacity building and technical assistance but is not itself engaged in delivering much of either.

The second largest budget (28%) is allocated to what is properly called 'throughput'; that is, developing project proposals, coordination with the different parts of IUCN, and meetings and workshops (some of which will also add value to the outputs).

3.1.1 Work for the International Treaty Processes

For the Intersessional 2005-08, 8% of the planned Programme budget is allocated to support work directly with six of the priority treaties and the World Water Forum (Table 4).

Table 4 Percentage of the Environmental Law Programme Intersessional budget for international treaty processes allocated to individual conventions and conferences

INTERNATIONAL TREATY	PERCENT BUDGET ALLOCATION ²⁶
Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar Convention)	42
Framework Convention on Climate Change (UNFCCC)	17
Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)	14
CBD Convention on Biological Diversity (CBD)	10
Commission on Sustainable Development (CSD)	9
UNCCD Convention to Combat Desertification (UNCCD)	4
World Water Forum	4
TOTAL	100%

²⁶ Budget allocation within subtotal assigned to support all international treaty processes

The largest sub-allocation (42%) within the treaty category is for work with the Ramsar Convention. This also covers the preparation of a Guide to the Ramsar Convention. Other allocations are for work with the UNFCCC (17%), CITES (14%), the CBD (10%) and the Commission on Sustainable Development (9%). The work includes preparing briefing materials and participation in the COPs.

3.1.2 Work on IUCN Priority Themes

Of the four main areas of work within the Environmental Law Programme, the largest budget allocation (33%) is for work in relation to IUCN priority themes and undertaking 'second generation' legal work that is required to better articulate legal concepts and instruments *within* the international treaties and improve the consistency of concepts and instruments *across* the treaties. This work can be roughly divided into 18 different thematic areas (Table 5). Some of the topics correspond to the foci of other Global Thematic Programmes. Others are emerging programme areas within IUCN.

Table 5 Percentage budget allocation of the Environmental Law Programme for thematic work by individual topics 2005-2008

THEMATIC AREA	PERCENT
Access and benefit sharing (mainly biodiversity)	17
Water	15
Global environmental governance	10
Transboundary issues	10
Protected areas	9
Environmental law (general)	7
Environmental services (including PES)	7
Invasive alien species	6
Sustainable development/poverty reduction	3
Human rights in conservation	3
Marine	2
Climate change	2
Energy	2
Biodiversity	2
Forests	2
Customary law	2
Ethical dimensions	1
Trade	1
TOTAL	100%

3.1.3 Information and Coordination Components

Of the overall Intersessional budget allocation for the Environmental Law Programme, 15% is for information (including communications) and documentation. Over half of this is to support ELIS (48%) and ECOLEX (8%) and the rest is for publications and communications such as the website and newsletter (32%) and for research, ICT and administrative support to the legal team and Commission etc (12%).

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 conceptual work within the Environmental Law Programme because it is more upstream from the immediate problems facing countries.

However, in the view of stakeholders within the Commission and in partner organizations, there is a need for *some* conceptual work in IUCN. One area of conceptual work that is seen by external stakeholders as very relevant to IUCN's work

follows on the earlier successes of influencing the international environmental treaties, and that is work on rationalising the concepts, definitions and legal instruments across different international and regional treaties. With some 500 such treaties in place, there are glaring inconsistencies that face countries as they try to implement them. A number of our external interviewees pointed out the value of IUCN's involvement with partners to work on creating a more coherent legal platform for 'global environmental governance'.

The Environmental Law Programme includes conceptual development work for human rights in conservation, the ethical dimensions of the IUCN Intersessional Programme, a new body of law on soil, and payment for environmental services. This last area has potential synergies with IUCN's economic work on economic policy instruments and is seen by stakeholders outside the IUCN Secretariat as a priority area for IUCN (section 5). Currently about 7% of Programme resources are invested in conceptual development. This appears to be the right order of magnitude.

The priority given in the Programme to work in Access and Benefit Sharing (ABS) in this Quadrennial has received both praise and criticism from stakeholders. It is probably the work of the Centre that is best known in the rest of IUCN, and although much of it is producing knowledge and tools for implementation, some of the work has been in further developing the ABS concept.

RECOMMENDATION 7

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.

3.2.2 Thematic work

Relevance as viewed by other global thematic programmes is generally determined by what is most useful to the delivery of their programmes. Herein is a problem. When the allocation of Programme resources is compared to the different thematic areas, there are some striking differences - from 15% of planned budget expenditures related to water to only 2% on marine or energy issues (Table 6). These allocations help to explain the range of views that we heard from stakeholders in other Global Thematic Programmes. Some stakeholders felt that staff in the Centre was not serving their programme needs for legal expertise (and therefore they found it elsewhere) whereas others were pleased with the amount of support they received.

A similar question about the relevance of the Programme is faced with respect to its environmental law work in the regions and countries – or rather the lack of its work on the ground. It is clear that since the regionalization of IUCN, the Environmental Law Programme has had a reduced emphasis on capacity building or in responding to country requests for technical assistance. In 2000-2002 the Programme included a

'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 Programme and are unable to comment on this aspect. The Partner Centres of the Commission identified in the last Intersessional have an undetermined status at present and we did not contact them.

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;
- A strengthened Centre with the capacity to adequately serve the (prioritized) Specialist Groups and to make the links between them and other Global Thematic Programmes and Commissions that IUCN needs.

Table 6 Specialist Groups and Task Forces in the Environmental Law Commission 2005-2008

SPECIALIST GROUP	Armed Conflict and the Environment Implementation of the Convention on Biological Diversity Energy Law and Climate Change Enforcement and Compliance Ethics Human Rights and the Environment Indigenous Peoples Judiciary Oceans, Coastal and Coral Reefs Sustainable Use of Soils Trade and the Environment Water and Wetlands Environmental Governance Protected Areas
	Arctic Regime Protected Areas (Joint CEL/WCPA Task Force)

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 obtain funds to attend Secretariat programme planning meetings. The Commission Specialist Groups are generally operating in isolation from one another so that there are reported to be programme silos in the Commission.²⁹ The foci of some Specialist Groups appear to overlap with those of other Commissions and might be strengthened by more cross-Commission interaction.³⁰ The Centre and the Commission need to find ways to increase the communication both *within* the Commission and between the Commission and the rest of IUCN in order to increase the effectiveness of the whole IUCN Programme. This is particularly important in the planning phase for the next Intersessional Programme.

RECOMMENDATION 8

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.

Specialist Groups

While respecting the Commission's autonomy with respect to the areas in which its members wish to work, the Centre and the Commission need to decide together on what are the *priorities* for joint action. Judging from the experience of the current Intersessional Programme and the initial plans for developing the Commission Strategic Plan 2009-2012, the Commission leadership may need to set clearer priorities between Specialist Groups when it comes to resource allocation within the Programme.³¹ At present, it appears to be largely a process of seeing which Groups become active and

²⁹ The planned cross-cutting Specialist Group on Governance is not yet fully implemented but the CEL Specialist Group Meeting , 1-2 June 2006, Brazil was an important first step in building bridges between the CEL Specialist Groups.

³⁰ For example, the CEL SG on Trade and Environment and the CEESP Specialist Group on Trade; the CEL SG on Indigenous Peoples and the WCPA-CEESP Joint Task Force on Indigenous Peoples and Protected Areas.

³¹ See also the minutes of the CEL Specialist Group Meeting , 1-2 June 2006, Brazil

possibly attract project funding and which ones fade away. But all Specialist Groups are absorbing some core funds for their operations on an annual basis.

RECOMMENDATION 9

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.

One outcome of the Commission maintaining many Specialist Groups is that the legal team in the Centre is stretched over a number of different highly specialised areas of the law in its role as focal point and liaison for the different Specialist Groups. This problem is exacerbated because some Specialist Group chairs can have unrealistic expectations of what resources are available within the Centre to provide support to them. Despite this, and despite the turnover in legal officers in 2006, Commission Specialist Group Chairs are generally satisfied with the support that they are receiving from Centre staff.

However, the bottom line is that the Centre is only able to provide a limited amount of technical assistance to Commission activities and that some prioritization will be needed so that support to Specialist Groups is focussed on those which are most directly contributing to the Intersessional Programme. In the future, the Centre and Commission might wish to consider establishing a different level of service to those Specialist Groups and Task Forces that work more directly to support the IUCN Intersessional Programme 2009-2012 and those whose areas of interest have less programme relevance.

RECOMMENDATION 10

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.

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 Law Programme is unlikely to be improved.

Commission membership

The third challenge to the Commission being an effective partner in delivering the Environmental Law Programme is that its membership is still weak in some regions, especially in Africa.³² This is despite an effort to strengthen its regional structure during the last Intersessional period. One part of the problem is that the Commission has not attracted enough members in the regions to provide the legal expertise needed by the other Global Thematic Programmes and the Regional Programmes. The other is that it does not have the systems in place in regions like Africa to assist Regional and Country Offices to tap into country-based expertise. When a Commission member is engaged as a consultant to a regional project, it is reported to be more often done on the basis of personal networks than on Commission information (or peer review) systems. This is despite an effort by the Commission leadership to link members electronically and improve information and communication systems.

Thus, the Commission is a key partner in delivering the ELP but it could be a more effective one. It still has weaknesses in its geographic distribution of members, which has implications for the languages its members can work in, and in its lack of prioritization of its own activities.

Liaison function

In addition, the liaison function between the Centre and the Commission appears not to be working as well as it might be. Both Specialist Group Chairs and staff within the Centre reported difficulties in obtaining needed information in a timely manner. This is reported to create an additional administrative burden on Centre staff and a less effective use of their time.

RECOMMENDATION 11
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.

³² We understand that the same issue arises in the regional membership of the IUCN Academy of Environmental Law

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 programmes and see environmental law as a critical input to their being able to deliver their own programmes. The opportunities and willingness for collaboration with the Environmental Law Programme are there. It appears that generally the needs of the other global thematic programmes for environmental law inputs are not met, for one or more of the following reasons:

- There is not the needed specialised expertise identified within the Centre or the Commission;
- There are insufficient financial resources within the Environmental Law Programme to pay for input to other programmes;
- The expertise may be available in the Commission but not in the relevant region;
- The expertise may be available in the Commission but the Centre does not effectively facilitate the interaction;
- The Centre is not sufficiently aware of or interested in particular programme or project discussions to seize opportunities as they arise³³.

The best example of recent collaboration between the Environmental Law Programme and another global thematic programme is that of water. In this case, the Centre had the in-house expertise with both the previous and present Directors having special knowledge of water law. The Commission had a Specialist Group on *Water and Wetlands* which has members in the regions where the WANI project had on the ground research. There were project funds available to pay for the time of the Centre and the Commission's input to the programme. The Centre facilitated the interaction between the Water Programme and the Commission Specialist Group on *Water and Wetlands*. Key knowledge products were produced on water governance (*Flow, Change, Value, Pay*) that the WANI programme could pay to have translated into fifteen languages, widely distributed and linked to capacity building activities.

³³ This includes delays in producing some outputs (such as on the precautionary principle) which reduces their relevance.

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 Regional and Country Offices, and having lawyers working on the projects who had the necessary expertise. In some cases, there appears to have been opportunities for greater collaboration that were missed by the Centre. Similarly, for work on policy development, collaboration between other parts of IUCN and the Environmental Law Programme could be more systematically involved than it is (section 5).

A concern was expressed by people in other global programmes about the Centre not being located in headquarters and thus able to interact more closely with them. However, an analysis of the ratings given by each global thematic programme for their interactions with one another, shows that the Environmental Law Programme did not fare significantly differently from the ratings given for collaboration between programmes which are both based in headquarters (Table 7).

Table 7 Interaction and collaboration between IUCN Global Thematic Programmes
(Ratings given in programme monitoring reports for 2006)

RATINGS MADE BY GLOBAL PROGRAMME UNIT:	RATINGS FOR INTERACTION AND COLLABORATION WITH GLOBAL PROGRAMME UNITS:*								
	B&B	EM	ELP	Forest	Marine	PBIA	Protected Areas	Species	Water
Business & Biodiversity	X	E	A	A	E	A	E	E	A
Ecosystem Management	E	X	TBD	E	TBD	A	A	TBD	A
Environmental Law	A	A	X	E	A	A	A	A	E
Forests	A	E	A	X	TBD	A	E	E	A
Marine	A	A	A	A	X	A	E	E	A
PBIA	E	E	E	A	E	X	E	E	A
Protected Areas	E	A	A	E	E	E	X	A	A
Species	A	TBD	TBD	TBD	A	A	A	X	TBD
Water	TBD	A	E	E	A	A	TBD	A	X

*RATINGS: E = excellent A = adequate TBD = to be developed

Our analysis suggests that while the Environmental Law Centre can, and does, collaborate with other global thematic programmes despite its out-posting in Bonn, it has to put in more effort to ensure that it is part of the ongoing discussions that take place between programmes. There is some truth to the 'out of sight; out of mind' adage unless special measures are taken – such as establishing an Environmental Law Programme office in Gland where Centre staff and Commission members can provide a regular presence at headquarters. Furthermore, IUCN programmes and corporate policy directions would benefit from having more frequent legal input to the ongoing policy debates at headquarters

There appear to be three sets of factors inhibiting effective collaboration between ELP and the other global thematic programmes:

- *The current business model of the Environmental Law Centre* – a small out-posted unit with limited in-house expertise in the areas of law related to other global thematic programmes. It is clear that the global thematic programmes need highly specialised legal input and the Centre cannot cover all the areas of specialisation needed without major expansion of resources;
- *The Centre's role as facilitator rather than supplier of expertise*. In other words, how well the Centre can use its liaison role with the Commission and member organizations to identify the expertise that other programme units need;
- *Priority setting within the Environmental Law Programme* – how have the resource allocation choices made by the Centre affected its capacity to collaborate with other global thematic programmes?

The current business model for the Centre does not support its capacity to respond to the demand from other global thematic programmes for legal expertise. There are only three full-time lawyers in addition to the Director and part time Senior Legal Counsel. The expertise of staff in the Centre is stretched too thinly across too many highly specialised areas of law to be able to play an effective partnership role with a wide range of global thematic programmes. We believe that the Centre could improve its role in linking expertise from the Commission and Members to the other global thematic programmes.

Table 5 showed that although the thematic work of the Environmental Law Programme covers some 18 topics, five topics account for just over 60% of the budget resources for 2005-08 – ABS, Water, Global environmental governance, transboundary issues and Protected Areas. This indicates that significant resources are allocated to work related to three of the global thematic programmes – Water, Protected Areas and Species. In contrast, very little resource allocation has been given to themes like marine and forests.

RECOMMENDATION 12

For the next Intersessional Programme, the Environmental Law Programme and associated annual workplans should have more focus on fewer priorities.

3.3.3 Collaboration with Regional Programmes

For the next Intersessional Programme, the Environmental Law Centre is putting more effort into better collaboration with the Regional Programmes. It has taken the initiative to bring together the people acting as focal points for environmental law (not all of whom are lawyers) in the IUCN Regional and Country Offices to plan together with the Centre.³⁴ For the next Intersessional Programme, the Centre is making every effort to overcome some of the shortcomings in collaboration within IUCN that have been experienced in this current Intersessional Programme.

Growth of regional programmes

We interviewed all Regional Directors except for Oceania to gain their perspectives on the relationship between their office and the Centre and Commission. All Directors interviewed said that there are major opportunities for more environmental law input to their programmes. The demand is there and growing. This has resulted in the appointment of lawyers or legal focal points in some offices and the establishment of a Regional Programme in Environmental Law for Asia, with a Pan-African Environmental Law Programme under development.³⁵ Thus environmental law in IUCN is already strongly regionalised and the number of environmental lawyers in the regions is likely to increase as resources are found for them.

The most common priorities for environmental law input across the regions are:

- Capacity building for governments and for practising lawyers who may not be versed in environmental law
- Drafting national environmental legislation
- Transboundary management of natural resources
- Water arrangements between users and countries
- Legislation to control the environmental impacts of major infrastructure projects
- Regional integration issues
- Trade and environment.

Reaching coherence between ELP and regional programmes

The amount of interaction between the regional programmes and the Centre and the Commission varies but in general, Regional Directors are positive about the Centre and considerably less so about their interactions with the Commission. A number of collaborative initiatives are underway or under discussion with the Centre on particular

³⁴ Meeting of the IUCN Secretariat Law Community, ELC, Bonn 11-13 December 2006. Not all offices have specialised legal staff and some have not identified a specific focal point for environmental law.

³⁵ Only the Regional Offices for Europe and South America reported having no legal officer or legal focal point.

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

Newsletter series and is an important communication tool for the Centre with the environmental law community and within IUCN. It should also be shared with donors.

The Programme receives high marks from stakeholders inside and outside IUCN for its publications. They are in strong demand in the regions and there are reportedly never enough copies to go around. Regional Directors said that they receive many more requests for multiple copies of IUCN Environmental Law publications from universities and from government departments than they are able to supply. The Guides to the Conventions are regularly photocopied by governments so that all delegates to a COP can have a copy. The demand would be even greater if more publications were available in languages like French, Spanish and Arabic.

We were not able to conduct any systematic review of the Environmental Law publications but our interview data supports the findings of an evaluation of IUCN's knowledge products and services which includes two case studies of Environmental Law publications.³⁶ The publications are seen as high quality, peer reviewed reports which characteristically bring together knowledge in a field to make it more accessible to a wider audience – including lawyers, government administrators and policy makers, NGOs, and academic institutions. Some publications are targeted to audiences beyond lawyers. The CD-ROM of Environmental Law publications 2001-2004 containing full text of many of them is an excellent initiative and a cost-effective way to make ELP's knowledge products more widely available.

Among the most widely appreciated publications are the Guides to international treaties such as the *Guide to the Convention on Biological Diversity (1994)*, the *Explanatory Guide to the Cartagena Protocol on Biosafety (2003)*, the *Guide to the International Treaty on Plant Genetic Resources for Food and Agriculture (2005)*. While several of these are available in more than one language, the demand is there to justify more investment in translation.

Another successful set of publications was deliberately targeted at the stakeholders who would need to work together on water resource management – from politicians, to NGOs and lobby groups and the environmental scientists and lawyers. These books aim to provide only essential knowledge and show where to find more detailed information. They are short and written in an accessible style. They have even shorter titles - *Flow (2003)*, *Change (2003)*, *Value (2004)* and *Pay (2006)*. These publications benefited from translation into 15 languages and a wide distribution, paid for by the WANI project donors.

However, for most Environmental Law publications there appears to be little or no publishing strategy to decide which reports to publish in hardcopy or as e-reports only; and little or no marketing strategy to ensure that key audiences are aware of them or that affordable multiple copies and alternative e-formats are distributed widely to countries. One cannot escape the conclusion that by not investing more in translation and dissemination of its products, the effectiveness of the Programme and its broader impact on policy at all levels has been reduced. There are opportunities to capitalize on earlier investments in Environmental Law products, by updating and reissuing some of the most popular and influential publications such as the Guides, and translating them

³⁶ Whyte, A and Ofir, Z, 2004, The Knowledge Products and Services Study: Addendum to the 2004 External Review of the IUCN Commissions.

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 and more user-friendly. Their commitment to both ELIS and ECOLEX is compelling.

Each of the three partners in the ECOLEX Partnership is finding it hard to maintain its end of the bargain in terms of data input for their nodes and appear even less able to inject the resources needed to take ECOLEX to the next level. IUCN and its partners have not been able to sufficiently support ECOLEX and the information systems on which it is based to keep pace in a fast-moving external environment for information. Nor have they been able to develop a new business model for ECOLEX.

Although it is housed in the Centre and is linked to the Environmental Law Programme through ELIS, ECOLEX's value proposition goes beyond the scope of the Centre or the Programme. Rather, it is one of the few products of IUCN that, like the Red List, could potentially be promoted as an International Public Good (IPG) (see Box 4).

³⁷ 'Live' in the web context means changing and updated.

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 commodities, resources, services — and also systems of rules or policy regimes — with substantial cross-border spillover effects that are important for development and poverty reduction, and that can be produced in sufficient supply only through cooperation and collective action by developed and developing countries."

The International Task Force on Global Public Goods also adopted a similar approach: "International public goods, global and regional, address issues that: (a) are deemed to be important to the international community, to both developed and developing countries; (b) typically cannot, or will not, be adequately addressed by individual countries or entities acting alone, and, in such cases (c) are best addressed collectively on a multilateral basis."

These two definitions imply that information and knowledge about development — an output of many global programs — is not necessarily a global public good. There is, for instance, no shortage of knowledge now being disseminated globally on the Internet. Useful knowledge also tends to be contextual, and its global public goods characteristics must be verified through empirical research."

³⁸ Taken from <http://www.worldbank.org/ieg/grpp> Independent Evaluation Group, World Bank, Jan 2007

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 and KSSF was signed in January 1999 when the two organizations and the co-located partners moved to the present office building provided by the German Government (Box 1). The Preamble to the 1999 IUCN-KSSF Agreement describes the agreement as an interim one pending IUCN obtaining legal status in Germany through legislation to be passed within the following two years (i.e. by January 2001).

As has been discussed in section 2.1 and 2.2, the current arrangement between KSSF means that IUCN staff posted in Bonn are employees of KSSF, and KSSF on behalf of itself or of its co-located partners, provides financial, ICT and other services including

³⁹ One question we have not been able to address is how far ELIS and ECOLEX can now be considered separately. Staff is at pains to point out to us that the main investment of IUCN-ELC is in ELIS – but without ECOLEX, would ELIS now have a viable future on its own? It seems to us that the future of the two is now inextricably linked – but we do not know.

procurement of equipment and supplies, to IUCN on a cost basis. The agreement can be terminated by either party with written notice of six months.

The question of IUCN's legal status in Germany has been at issue since at least 1996 when discussions between the three federal ministries involved (Finance, International Cooperation (BMZ) and Environment, Nature Conservation and Nuclear Safety (BMU) were taken up following a 1996 decision of the federal Cabinet⁴⁰. These were not resolved by the time of the move into the new building by IUCN in 1999 and the agreement between IUCN and the German Government signed in December 1998 specifically refers to ongoing negotiations on IUCN's legal status:

"IUCN agrees to move into the building provided by the Government on the understanding that the questions as regards the status of the IUCN in Germany will be resolved to the satisfaction of both Parties in the near future".

From our discussions with representatives of the German ministries and our review of documents relating to the legal status question, it appears that the three ministries must agree on a common bill to be presented to both houses of the German Bundestag asking for special status for IUCN as an International Organization. To date these discussions have not been successful, partly we understand because of a concern about establishing a precedent for other organizations seeking such status and partly because the German officials are aware of the position regarding legal status taken by IUCN in the Netherlands and Belgium⁴¹.

This long-running special status question has delayed IUCN from taking action to have its own legal personality in Germany and thus able to hire its own employees and conduct its own operations. It appears that IUCN could fairly easily obtain such status either as a foundation (*Stiftung*) or non-profit association (*eingetragener Verein*) and has been encouraged by one German Ministry to do so, as a way of *helping* in the resolution of the special status issue.

The first steps have been taken five years ago. IUCN began the registration process with the City of Bonn as an independent organization in December 2001 and opened its own bank accounts in February 2002 but these accounts have been, and are still dormant pending further steps by IUCN towards independence. Concerns raised at that time including possible increased operating costs led to the decision by IUCN in 2002 to go no further seeking an interim solution.

There is some optimism on the part of representatives of BMZ and BMU that the next 12 months could see a change in the position of the German Government because Germany will be in the international spotlight as the host of the CBD COP9 in June 2008. Given that IUCN has operated in Germany without any separate legal status for 37 years, it would seem appropriate to allow its supporters within BMZ and BMU another year to do what they can. However, the appointment of a new Director General at IUCN is a good opportunity to hold some high level discussions with the German Ministries

⁴⁰ We understand from the current Director of the Environmental Law Centre that there is no written communication to the German Government of what is being sought by IUCN in terms of the rights and privileges associated with its quest for International Organization status

⁴¹ We assume that this means IUCN has accepted something less than it is seeking in Germany.

and make sure that the International Organization status is kept on the front burner through June 2008 for all parties involved.

RECOMMENDATION 16

IUCN should take the opportunity of a higher profile for the Environmental Law Centre in Germany during the preparations for CBD COP9 to work with the relevant German Ministries to seek International Organization or other appropriate status for IUCN within Germany.

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.

If this initiative to obtain International Organization status is not successful by the end of 2008, IUCN should reconsider its options for operating in Germany or for bringing ELC to Switzerland, by a thorough examination of the legal status file and an independent review of the governance and financial implications of each alternative.

More clarification is needed on both the political and financial implications of alternative courses of action to guide IUCN's next steps, including an analysis of the financial benefits of being an International Organization compared to the alternatives. In any case, doing nothing on the part of IUCN over the next few months does not seem a good option as the present political window of opportunity is real and closing.

RECOMMENDATION 17

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.

4.3 Location of the Environmental Law Centre

The review team heard different views about the advantages and disadvantages of relocating the Environmental Law Centre (ELC) from its present office building in Bonn. We were asked to look at three alternatives:

- ELC to remain in the present office building in Bonn
- ELC to move to the UN Campus in Bonn
- ELC to move to IUCN headquarters in Gland.

The second alternative – to move to the UN Campus in Bonn – seems to be a non-starter since the current building in which IUCN is housed has high quality office space and could accommodate more staff if needed. There is no certainty that any alternative space on the UN Campus would be better and IUCN-ELC could lose its visibility within the collection of other secretariats located on the campus. The German ministries sponsoring the Environmental Law Centre are not promoting the idea of a move to the campus and appear to prefer that IUCN-ELC stay right where it is. It is located on a main street in Bonn with an IUCN sign outside the building and has its own identity as the IUCN Environmental Law Centre.

The option of moving ELC to Gland has been mooted in the context of the additional office space at headquarters expected to become available in 2009-10 as part of the new headquarters building. Indeed we heard that part of the rationale for IUCN proposing the new building to donors was the consolidation of programmes such as the Environmental Law Programme. The view from headquarters, including among management and Global Thematic Heads is that having the Environmental Law Centre in Gland would facilitate collaboration across global thematic programmes and bring the Centre into more of the strategic discussions about programme and operations including linkages with regional and country programmes. Regional Directors and staff in the RCOs come to IUCN headquarters on a regular basis as do the framework donors. Currently, ELC is largely absent from these interactions.

The view from within the Environmental Centre is generally to prefer to stay in Bonn. It is recognised that by not being in headquarters, ELC staff miss out on programme and strategic discussions but they question how much other global thematic programmes really capitalize on their co-proximity to develop closer programmatic relations. There is also a concern that by being located in headquarters, Centre staff would get distracted from implementing the Environmental Law Programme by getting involved in legal issues and requests for legal advice that do not advance IUCN's environmental law programme. The Environmental Law Centre staff is also concerned not to lose the excellent internal working relationships that they currently enjoy compared to their perception of life in headquarters.

The Commission leadership has no strong views on where the Centre should be located. The framework donors generally felt that it made logical sense to have the Environmental Law Centre in IUCN headquarters to facilitate the integration of the Environmental Law Programme with other parts of the programme. However, two important donors offered views favouring that ELC remain in Bonn – SDC and the German Ministries currently sponsoring the Centre in Bonn.

Clearly, the question of the location of the Environmental Law Centre is closely linked to the question of IUCN's legal status in Germany and what direction IUCN wishes to follow regarding obtaining independent status. The support provided by the German federal government for the out-posted office in Bonn and any future programme support, including current project negotiations, would likely be affected by any move on the part of IUCN to relocate the Centre from Bonn.

Our review leads us to believe that there are clear programme advantages to IUCN if the Environmental Law Centre were based in IUCN headquarters where the expertise of environmental lawyers can strengthen IUCN's programme across the Board. As we have seen, collaboration between the Environmental Law Programme and some global

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

Despite the best efforts of the people involved on both sides, there is tension today between the IUCN Academy of Environmental Law (the Academy) and the Environmental Law Centre. This is mainly fuelled by *de facto* competition between the two for external financial resources, at least as seen from the perspective of ELC, and some unresolved issues about the division of responsibilities for delivering the IUCN law programme. IUCN is also providing funds to the Academy each year to support its annual colloquium and its publications.

The review team was asked to look into the relationship between the Environmental Law Centre and the Academy as a strategic issue because there is a licence agreement in place which comes up for renewal in December 2007, when some changes could be made.

The origins of the Academy lie in the evolution of IUCN over the past decade or more when the leadership of the Commission felt that the trend towards project management within the secretariat, and specifically within the Environmental Law Centre, coupled with the difficulties of getting significant amount of volunteer time from individual Commission members were not conducive to making new strides in conceptual development in environmental law, like those achieved by IUCN in the 1970's and 1980's.

After eight years of experimentation with capacity building programmes, and a broad-based consultation process with universities in all regions, the more academic oriented members of the Environmental Law Commission decided to launch the Academy initiative based around an annual conference devoted to new concepts in law; an associated scholarly publication; research projects and teaching and capacity building in environmental law. The Academy initiative was first announced at the 50th Anniversary of IUCN in 1998 and subsequently was supported by a Resolution of the 2nd IUCN World Conservation Congress in Amman in 2000.

Although the Academy is a separate legal entity from IUCN with its own secretariat in Canada, it is organically embedded within IUCN. Its purpose is restricted to furthering the IUCN Environmental Law Programme and the Chair of the Commission and the Director of the Centre are *ex officio* Directors of the Academy. It was established as a Canadian Corporation in 2006 with the objective of contributing to, and promoting the mission of IUCN and the mandates of CEL and the ELC through the Environmental Law Programme. Its members are

“university law departments, law faculties and law schools, located throughout the world, that have made teaching and research about environmental law a significant component of their academic programme and whose application for membership has been approved by the Governing Board”⁴³.

The Academy has established a secretariat at the Faculty of Law, University of Ottawa, Canada with a staff of four (two Co-Directors, a Program Coordinator, and Office Administrator) and a Visiting Scholar in 2006. It has a track record of four major annual conferences in different parts of the world focussed on key issues in environmental law

⁴³ By-laws of the IUCN Academy of Environmental Law, Article 4.2

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 Centre and the Academy and more on developing collaborative workplans leading to coordinated proposals to donors and other partners. The reality of fundraising is that advance notice from one party to the other will not always be possible – here is where the goodwill and good faith come in. Both parties should do their best to coordinate fundraising efforts, and be clear to donors that both of them are implementing partners within the IUCN Environmental Law Programme.

RECOMMENDATION 19

IUCN should ensure that decision on the renewal of the Licence Agreement in December 2007 is done on the basis of a thorough review of the costs and benefits to IUCN. If all goes well, 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 explaining the relationship between IUCN and the Academy and agreed division of activities should form part of the fundraising proposals made by both parties.

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 internally from the standpoint of human resources, programme management and financial administration. It has good team spirit and productivity especially given that it has new leadership, high staff turnover and a small overall budget.
2. If all other things were equal, it would be preferable from a programmatic perspective to locate the Environmental Law Centre in IUCN headquarters where environmental law could more readily influence all global thematic programmes as well as the policy debates at the heart of IUCN.
3. All other things are not equal. There are compelling political and financial reasons for the Centre to remain in Bonn for the next 1-2 years, or until the questions around IUCN's legal status in Germany and Europe are resolved.
4. As a matter of contingency planning, IUCN should reconsider what the financial, reputational, and operational costs and benefits of different legal status options for keeping the Environmental Law Centre in Germany.
5. As a consequence of the IUCN regionalization policy, more environmental law resources and programme activities are in the Regional Programmes, but there remains a role for a global environmental law programme beyond what the Regional Office staff can provide. Decentralisation of ELP entirely to the Regional Programmes is not advised.
6. The future of the Environmental Law Centre is seen less as 'global coordination' of regional environmental law programmes and more:
 - Technical input to IUCN's involvement with the international treaty processes;
 - Key resource for IUCN's policy positions;
 - Technical input to programme development and fundraising across all global thematic programmes and all regions;

- 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 the budget of the Environmental Law Centre. This skews financial ratios for the Centre. We would recommend that the costs for the legal work and the various tasks of the Information and Documentation Unit should be more clearly delineated.

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 that it is located within the European Union. There are a number of options to explore concerning the use of the 'IUCN Building' in Bonn which should be considered before making any decision about possible relocation of ELC to Gland.

5.2 The time line

IUCN will need to make some major decisions affecting the status and configuration of its Environmental Law Programme and its physical presence in the European Union within the next two years – that is before the WCC and the approval of the next Intersessional Programme; and before the political window in Germany closes after the COP9 of the CBD to be held in Bonn in June 2008.

Table 8 shows the time line and sequencing of decisions and actions that we recommend that IUCN considers making in 2007 and 2008.

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 Programmes on strengthening ELP ○ Discuss closer links between PBIA, Economics and Environment, and ELC
2007	<ul style="list-style-type: none"> ○ Consider making costs of different tasks in Information and Documentation Unit more visible (ELIS, ECOLEX, communications etc) ○ Appropriate advice and legal steps taken on alternative legal status options for IUCN in Europe/Bonn ○ Discuss with Council a strengthened MoU to better link resource allocation within IUCN Commissions to the needs of the IUCN Programme ○ Undertake a marketing strategy for Environmental Law publications ○ ECOLEX Partnership receives evaluation report and makes recommendations to the partner organizations ○ Negotiations finalised regarding renewal of licence agreement with IUCN Academy of Environmental Law (<i>Dec 2007</i>) 	<ul style="list-style-type: none"> ○ Identify what expertise is needed from CEL for next Intersessional Programme and develop a business and organizational plan to provide it ○ Agreement reached between CEL-ELC on a two-tier provision of support to Specialist Groups ○ Terms of reference agreed for CEL Liaison Officer and for Environmental Law Centre Commission Focal Points ○ Continue discussions with German authorities on financial support to IUCN-ELC
2008	<ul style="list-style-type: none"> ○ Conclude negotiations with German authorities on IUCN status in Germany and use of office space in Bonn ○ Reach decision on location and configuration of Environmental Law Centre for next Intersessional Programme ○ Reach decision on future of ECOLEX within IUCN 	<ul style="list-style-type: none"> ○ Assist implementation of decisions regarding IUCN legal status in Germany and use of office space in Bonn

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 ECOLEX; and it would provide a better financial picture of the costs of the information, documentation and communication services in the Centre. (*Recommendation 3*)
4. 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. (*Recommendation 5*)
5. Programme planning in IUCN should more clearly assign responsibilities for delivering results between the appropriate unit(s) in the Secretariat and in the Commissions. An integrated programme still requires clear accountabilities for deliverables. (*Recommendation 6*)
6. The leadership of the Commission should work with the Environmental Law Centre to identify the Commission 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*)

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 status in Germany; future financial support to IUCN and alternative uses for the IUCN office building in Bonn.

These negotiations should involve IUCN leadership at the highest levels, including the Director General. (*Recommendation 18*)

12. IUCN should ensure that decision on the renewal of the Licence Agreement with the IUCN Academy of Environmental Law in December 2007 is done on the basis of a thorough review of the costs and benefits to IUCN. If all goes well,

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*)