

## Editorial

2010 is the International Year of Biodiversity. Biodiversity is perhaps the most important environmental issue that there is. Maintaining biological diversity, and the environmental services that nature provides, are essential to human health, our economic and social stability, and integral to many of our cultural and spiritual values.

However, despite the vital importance of biodiversity to our societies, we have allowed it to deteriorate significantly over the past number of decades on local, national, regional and global levels. According to the World Wide Fund for Nature's (WWF) 2008 *Living Planet Report*, humanity's ecological footprint in 2005 was 31% larger than the planet's capacity to produce the resources that we consume. WWF predicts that by the early 2030s, human beings will require the resources of two planets to meet our needs.

The UN Convention on Biological Diversity's (CBD) 2010 Global Biodiversity Outlook states that almost one quarter of plant species are likely threatened with extinction, the abundance of vertebrate species has fallen by almost one third since 1970, and 42% of all amphibian species and 40% of bird species are declining in population. About 80% of the world marine fish stocks are fully exploited or overexploited, and there has been an 11% decline in total fish biomass globally since 1977. Wetlands continue to be lost at a rapid rate, and fragmentation and degradation of forests, rivers and other ecosystems have led to significant losses of biodiversity and ecosystem services.

Over 170 countries now have national biodiversity strategies and action plans. Public awareness and education campaigns have been launched, financial resources have been mobilized, and mechanisms for research, monitoring and scientific assessment of biodiversity are increasing. However, action under the CBD to address the pressures on biodiversity have not been sufficient to halt or even significantly slow down the loss of biodiversity that the planet is now experiencing.

2010 was envisaged as the target year for turning this situation around. In 2002, at the CBD's sixth meeting of the Conference of the Parties, at the World Summit on Sustainable Development, and in the UN General Assembly, States pledged that there would be a significant reduction of the rate of biodiversity loss at the global, regional and national levels by 2010. This was also incorporated into the UN Millennium Development Goals.

Unfortunately, this goal has not been met. Nor have any of its 21 sub-targets.

To make matters worse, it appears that the consequences of current trends may be more significant than previously thought. Recent predictions place in doubt the continued provision of vital ecosystem services to many peoples. Those who will be most affected will be the poor and vulnerable who are also the least able to adapt. However, this news is not new. Back in 2004, the Millennium Ecosystem Assessment indicated that over the past 50 years, human beings have changed ecosystems more rapidly and extensively than ever before, resulting in a substantial and largely irreversible loss in biological diversity. The Assessment predicted that this degradation of ecosystem services will substantially diminish the benefits that future generations obtain from ecosystems and could grow significantly worse.

This issue of *RECIEL* examines recent developments in the area of international biodiversity law and policy, analysing key issues that must be addressed in order to curb biodiversity loss. These include reforming the international governance framework for biodiversity issues, better addressing access and benefit sharing and protecting species and habitat, developing stronger rules for liability and redress concerning biosafety, and instituting stronger measures to stop the spread of invasive alien species.

Aðalheiður Jóhannsdóttir, Ian Cresswell and Peter Bridgewater examine the current international governance framework for biodiversity, finding that significant changes are needed in order to make it effective and to stop worldwide biodiversity change and loss. They advocate for structural changes in global biodiversity governance to stop the current rates of biodiversity decline. Using 'environmental law methodology' as the analytical lens for examining the situation, the authors suggest adjustments that would enhance biodiversity governance to 'enable the international community to regain control of the diminishing status of biodiversity'.

Elisa Morgera and Elsa Tsioumani analyse an important issue related to access and benefit sharing: the need for linking biodiversity and community livelihoods issues. The authors review the development and use of the concept of benefit sharing under the CBD regime, highlighting the concept's contribution to indigenous and local communities' livelihoods. They distinguish inter-State benefit sharing from State-to-community benefit sharing, noting their different legal

connotations and the impacts that they have. Morgera and Tsiumani then examine international intellectual property, health and climate change processes, noting the significant influences that these conceptual developments may have on the issue.

Charlotte Salpin and Valentina Germani analyse recent legal developments in the field of marine protected areas (MPAs) beyond national jurisdiction. Noting progress and challenges in establishing MPAs, the authors examine misconceptions related to these protected areas, and the legal and institutional issues surrounding them. These include issues relating to establishing MPAs and the establishment of the outer limits of the continental shelf of coastal States pursuant to the United Nations Convention on the Law of the Sea.

In her article, Carolina Lasén Díaz analyses the work completed over the past 30 years under the Council of Europe's Bern Convention on the Conservation of European Wildlife and Natural Habitats. Noting the innovative nature of the convention at the time of its inception in 1979, the author explains that the approaches taken by this biodiversity convention were revolutionary at the time. These included approaches that protect both species and habitats, take into account the impact that other policies may have on natural heritage, and recognize the intrinsic value of wild flora and fauna. In practice, the author finds that the convention has 'combined concrete and practical action on the conservation and management of key species and sites with more strategic and forward-looking instruments on complex issues long before they were subject to legislation'.

Stefan Jungcurt and Nicole Schabus examine the key elements of the draft Supplementary Protocol on liability and redress which is being negotiated under the CBD's Cartagena Protocol on Biosafety. Noting that the draft Supplementary Protocol will be tabled in Nagoya, Japan for adoption at the fifth session of the meeting of the parties to the Biosafety Protocol in October 2010,

the authors analyse the role of liability and redress under the Biosafety Protocol and describe the significant aspects of the draft. They also analyse the outstanding issues that need to be addressed before the Supplementary Protocol is adopted, and provide insight on its ratification requirements and its potential impact and effectiveness.

Opi Outhwaite examines the issue of biosecurity and the problem of invasive alien species. Emphasizing the importance of using biosecurity measures to stop biodiversity loss, Outhwaite finds that although several international instruments are relevant in this regard, legal analysis of biosecurity at both the international and national levels remains limited. The author analyses the nature of biosecurity as a regulatory concept, reviews key international legal provisions and standards applicable to biosecurity and describes challenges in applying an international framework to biosecurity.

This issue also contains three non-thematic articles. Kate Cook and David Bowles examine the relationship between animal welfare standards and world trade rules. Tomilola Akanle reviews the interconnections and conflicts between international measures to protect the ozone layer and measures to combat climate change. Antti Palmujoki, Katriina Parikka-Alhola and Ari Ekroos examine green public procurement issues in Europe, analysing environmental criteria in public procurement contracts and calls for tenders and their enforceability, among other things.

The issue also includes several book reviews and a case note by Jan de Mulder examining the International Court of Justice's recent decision in the paper mill permit dispute between Argentina and Uruguay, which addresses the applicability of environmental impact assessments in transboundary contexts.

I hope you enjoy the issue.

Hugh Wilkins  
*Managing Editor*