



## PROMOTING LAWS FOR BIODIVERSITY

### Defining priorities, actions and partnerships

Pyeongchang, Republic of Korea  
Saturday, 11 October 2014  
12 pm – 6pm

This Experts' Retreat will bring together select representatives from CBD Parties, UN specialized agencies and other relevant organizations, as well as eminent legal experts for a focused discussion on how approaches to promote legal preparedness can support effective implementation of the CBD Strategic Plan and the Aichi Biodiversity Targets. The Retreat intends to provide substantive input on the contribution of the rule of law to the overall theme of the COP 12 High-level Segment - "Biodiversity for Sustainable Development" and further, to define priorities to inform and support the implementation of the CBD Strategic Plan.

#### Retreat Objectives:

The main objectives of the Retreat are to:

- Provide an update on the latest global dialogues and developments on the rule of law for sustainable development, and outcomes of the IDLO-SCBD Legal Preparedness for Achieving the Aichi Targets Initiative;
- Identify gaps in legal knowledge and capacity and promote sharing of innovative legal responses being developed by CBD Parties and relevant organizations;
- Define actions and partnerships to devise effective legal solutions to address key biodiversity challenges at the national level.

#### Organization of Meeting:

The Retreat activities will consist of:

- **Keynote briefing and lunch session** featuring global experts to highlight recent developments in defining the contribution of law for biodiversity and more broadly sustainable development.
- **Thematic breakout sessions** where participants will be invited to share and discuss the most pressing legal challenges and innovations in the national implementation of the Aichi Biodiversity Targets. The sessions will also explore how further innovative legal responses can be designed to address the identified challenges.

The themes for the breakout sessions will align with the main legal challenges identified through a series of pre-COP 12 interviews and surveys with participants and advisors, and are anticipated to include *inter alia*: the implementation of the Nagoya Protocol (Target 16), mainstreaming and economics of biodiversity (Target 3), protected areas and conservation measures (Target 11). Input received through the interviews will be compiled and synthesized by IDLO to facilitate focused discussions during the Retreat.

The key outcomes of the Retreat will be summarized and shared with the broader CBD community at an official COP 12 side event to be held on Thursday, October 16<sup>th</sup> 13:15 – 14:45.

## BACKGROUND NOTE

Attention to law is key in achieving sustainable development, both as a barrier to progress and opportunity for more just and equitable outcomes. Recognition has been growing that the advancement of the rule of law at the national and international levels is essential for sustainable development.<sup>1</sup>

This recognition has been reflected in a proposed stand-alone “Rule of Law” target in the latest proposal for the SDGs released by the Open Working Group in June 2014. The text recognizes the need to promote rule of law and access to justice, including effective, accountable and transparent institutions, participatory and representative decision-making and public access to information.<sup>2</sup> The importance of the rule of law for environmental matters more specifically has also been emphasized by the international environment<sup>3</sup> and biodiversity communities.<sup>4</sup>

<sup>1</sup> Rio+20 Outcome Document, the Future We Want, para. 10; Declaration of the High Level Meeting of the UNGA on the Rule of Law at National and International Levels, A/RES/67/1, 30 November 2012, para. 7.

<sup>2</sup> Proposed SGD 16 includes Target 16.3: *promote the rule of law at the national and international levels, and ensure equal access to justice for all*.

<sup>3</sup> UNEP, *Advancing Justice, Governance and Law for Environmental Sustainability*, 2012, page iv.

<sup>4</sup> Held at the margins of Rio+20, UNEP’s World Congress on Justice, Governance and Law for Environmental Sustainability gathered high-ranking representatives of the judicial, legal and auditing bodies of countries around the world, which have affirmed “the role of law as an indispensable tool on the path towards sustainable development and greener economies”, as well as stated that “without adherence to the rule of law, without open, just and dependable legal orders the outcomes of Rio+20 will remain unimplemented.”

See also: UNEP, *Decisions Adopted by the Governing Council/Global Ministerial Environment Forum at its first Universal Session*, Decision 27/9: *Advancing justice, governance and law for environmental sustainability*, UNEP/GC.27/17, followed up on this issue and recognized the term ‘environmental rule of law’, including issues such as adequate and implementable laws, access to justice and information, public participation, accountability, transparency, liability for environmental damage, fair and just enforcement, and human rights and its importance to reduce violations of environmental law and to achieve sustainable development.

UN Environmental Assembly, *Preliminary Background Note*, 3 June 2014. On the occasion of the 1st Session of the United Nations Environment Assembly in 2014, a Global Symposium on Environmental Rule of Law was held and focused on environmental justice and sustainable development.

Since 2012, the Legal Preparedness for Achieving the Aichi Biodiversity Targets Initiative has worked with lawyers around the world to gather evidence of how law makes an effective contribution to biodiversity, through:

- i) the creation, implementation and enforcement of **strong legal frameworks** that enable the translation of international biodiversity goals into national priorities and mechanisms;
- ii) the establishment and proper functioning of **responsive and accountable institutions** at all levels; and
- iii) the **empowerment of people**, especially the most vulnerable and marginalized groups, to benefit from the opportunities arising from biodiversity for their livelihoods, and to uphold their rights related to the environment and their sustainable economic development.<sup>5</sup>

Countries and organizations worldwide have been developing and adopting legal approaches and solutions to address a growing range of biodiversity challenges, which are achieving more clear, stable, sustainable and equitable outcomes for biodiversity and people. It is now timely to connect these efforts and discussions and to define a new focused agenda to promote effective legal responses supporting the CBD Strategic Plan.

Participants emphasized, among other issues, that achieving sustainable development will require greater focus on development of laws and policies that can balance protection and sustainable use of the environment, and also the importance of capacity building, transparency, public participation, accountability, good governance and justice in environmental matters.

<sup>4</sup> For instance, the 7<sup>th</sup> Trondheim Conference on Biodiversity highlighted the need for legal and governance arrangements, as well as active coordination between sectors and appropriate safeguards as means to further implementation of the Strategic Plan for Biodiversity. See Seventh Trondheim Conference on Biodiversity, “Ecology and Economy for a Sustainable Society”, Co-Chairs Report, June 2013.

<sup>5</sup> IDLO, *Legal Toolkit for Legal Preparedness for the Aichi Biodiversity Targets*, forthcoming 2014.

## Details of the Retreat

The Retreat will begin with a working lunch session with eminent experts who will provide an update on the latest developments on the role of law to achieve biodiversity goals. This briefing session will be followed by a short small group discussion and plenary report back on to define overall key themes and issues related to laws for biodiversity.

- What are **key emerging areas** where law can play an influential role to implement the Strategic Plan for Biodiversity? **What role can law play?**

Participants will then join moderated parallel breakout sessions on key themes under the Strategic Plan for which recent studies have been completed and effective legal responses are needed. The focus of each thematic session will be refined through pre-COP 12 consultations, and are anticipated to include:

### Breakout Theme 1: Implementing the Nagoya Protocol Target 16

Building Nagoya Protocol-compliant legal frameworks is a key early step in national implementation. Studies to date have shown that no one-size-fits-all solution exists. Rather CBD Parties will need to build legal frameworks tailored to their country context and flexible enough to be adapted through a learning-by-doing process as Protocol implementation progresses globally. *What are the ingredients for success to ensure long-term success in this area?*

### Breakout Theme 2: Mainstreaming & Economics of Biodiversity Target 3

Key priorities of the CBD agenda are to advance in efforts to mainstreaming biodiversity, promote ecosystem valuation and build biodiversity incentives, as well as to provide new and innovative sources of financing for biodiversity. These processes

entail significant change from existing systems, and a need exists to put in place the enabling mechanisms for these efforts, requiring an assessment of existing legal and governance frameworks, rights to access to scientific and technical information, and effective civil society engagement. *What legal work has been done in this area, and how can it be synergized into relevant programs?*

### Breakout Theme 3: Protected Areas and Conservation Measures Target 11

Target 11 emphasizes the need for a nuanced understanding of protected areas and other conservation measures – one that focuses not on strict preservation areas but protected areas supportive of people and their sustainable development. Achieving this will require attention to land rights, innovative governance models and other legal issues. *What and where is the latest progress in this area, and how can it be expanded?*

The **guiding questions** for each Breakout Session will be:

- What have been the **achievements** in this area in your country or field of work?
- What are the **gaps, challenges and barriers**?
- What can you **contribute** to filling these gaps or promoting these achievements?
- What **partnerships** are needed to promote the most effective legal solutions to address key biodiversity challenges at the national level

The Retreat will close with a plenary Report Back session focused on identifying the promising legal tools and supportive partnerships needed to assist CBD Parties to make meaningful progress on building legal frameworks to implement their commitments under the Strategic Plan for Biodiversity.

Retreat results will be shared with the broader CBD community at an official COP 12 Side Event on Thursday lunch, October 16<sup>th</sup>.