

# STRENGTHENING CAPACITY FOR ENVIRONMENTAL LAW IN THE ASIA-PACIFIC : DEVELOPING ENVIRONMENTAL LAW CHAMPIONS

Chiang Mai, Thailand, 19-23 June 2017

**SESSION 6. PROTECTION OF BIODIVERSITY/  
NATURAL & CULTURAL HERITAGE**

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## LEARNING OUTCOMES

- **Session Content**
  - Overview of main international environmental agreements on biodiversity and natural /cultural heritage
  - Regional agreements (ASEAN)
  - “Soft laws” – World Charter for Nature; Earth Charter
- **Objectives**
  - Participants are to examine & critically evaluate whether these MEAs (Multilateral Environmental Agreements) apply in Thailand, and if so, how are they implemented.
  - If there are inadequacies, consider how these can be resolved



## MAIN MEAs RELATING TO PROTECTION OF BIODIVERSITY & NATURAL /CULTURAL HERITAGE

- Convention on Wetlands of International Importance (Ramsar) 1971
- Convention on International Trade in Endangered Species of Flora and Fauna (CITES) 1975
- Convention on Migratory Species of Wild Animals (CMS or Bonn Convention) 1983
- Convention on Biological Diversity (1992)
- Convention for the Protection of World Cultural & Natural Convention (1972)



## REGIONAL- ASEAN instruments (selected)

- ASEAN Agreement on the Conservation of Nature and Natural Resources, 1985
- ASEAN Declaration on Heritage Parks and Reserves, Bangkok November 1984, now replaced by new Declaration on Heritage Parks, 18 Dec 2003
- Memorandum of Understanding on ASEAN Sea Turtle Conservation and Protection, 1997, Bangkok
- ASEAN Statement on CITES on 13<sup>th</sup> Meeting of CITES COP, Bangkok 2004 – Bangkok
- Establishment of **ASEAN-Wildlife Enforcement Network (ASEAN-WEN)** (2005) in Bangkok

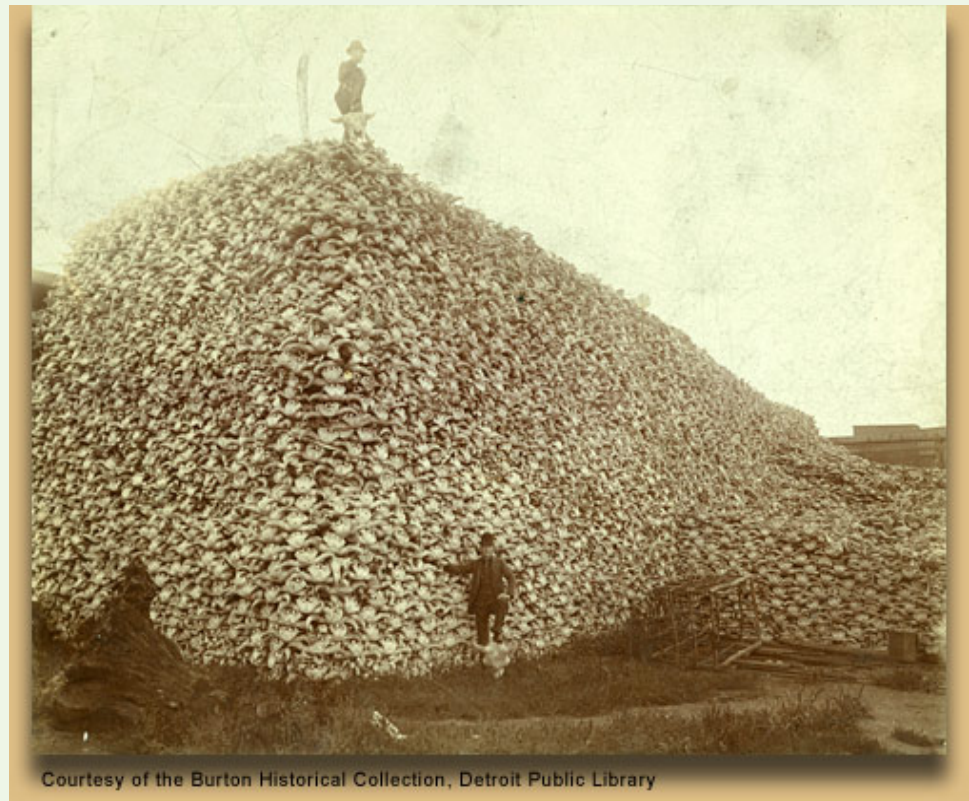


## Ramsar Convention

- For “the conservation and wise use of all wetlands through local, regional and national actions and international cooperation”
- In force in Thailand 13 Sept 1998.
- 14 sites designated in Thailand
- **Almost all ASEAN states are parties to Ramsar except Brunei & Singapore**
- In 1999, Ramsar’s 7th COP issued Guidelines for reviewing laws and institutions to promote conservation and wise use of wetlands.
- <http://www.ramsar.org/pdf/guide-laws-e.pdf>



# Chief Seattle & Loss of Bisons



Courtesy of the Burton Historical Collection, Detroit Public Library



# Pangolins – on the verge of extinction in SEAsia

106 rescued in Vietnam in 2011, worth US\$50,000

Singapore Zoo

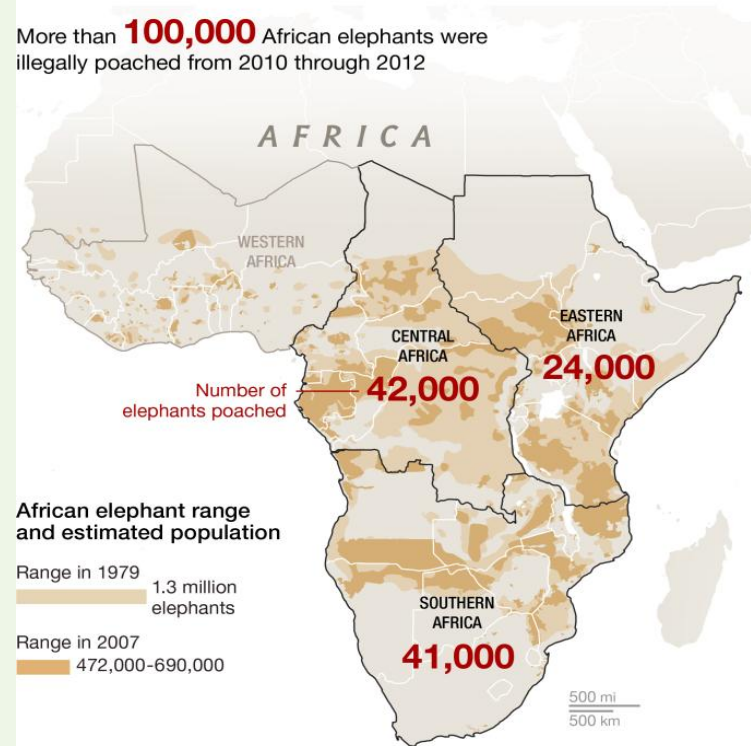


# 100,000 elephants killed in 3 years – 33,000 killed each year, 2750 killed each month



## New Poaching Numbers

More than **100,000** African elephants were illegally poached from 2010 through 2012



Elephant populations in western Africa, representing about 2 percent of the species, were excluded from the study. Regional estimates differ from continental totals because statistical models generated regional and continental estimates separately.





## Highly endangered – all rhinoceros



- The number of rhinos poached in South Africa alone has increased by 9,000% since 2007 - from 13 to a record 1,215 in 2014.

Pictures from <http://savingthesurvivors.co.za/save-the-survivors/?gclid=CM2BkvOFkMoCFUEkaAodWA>

4G1w



# Illegal trade in endangered species



**Tiger parts for the market –  
Vietnam, China**

**Q – should tigers be farmed?**



# Illegal trade in endangered species - Bears



- Bears as pet
- Bears as food
- Bears caged and milked/  
killed for bile –



## Most trafficked animal - pangolin

- **Black market value:US\$1,500 per kg**
- **How many tons?**
- **Used for food, TCM and precursor for methamphetamine**



Nick Ahlers TRAFFIC  
UNODC "Recovering the Proceeds of Wildlife and Timber Crime"  
Bangkok 20th January, 2015

## CITES

- Signed in Washington DC 3 March 1973, In force 1 July 1975.
  - Some 181 countries are parties.
  - [www.cites.org](http://www.cites.org)
1. Objectives:
    - To regulate trade in endangered species of wild flora and fauna.
  2. Permits required for trade.
    - Security papers, numbers, stamps to prevent forgeries
    - Secretariat in Switzerland.
    - Scientific and Management Authority set up in each country.
    - Conference of the Parties (COP) every 2 years.



## CITES -3 Appendices

- Appendix I .
- Species threatened with extinction by trade eg. giant panda, tigers, rhinoceros, Asian elephants, all lemurs and apes, all sea turtles, many birds of prey, cranes, pheasants and parrots; many mussels, rare orchids.
- Requires export certificate, re-export certificate, import permit
- Appendix II
- Species which though not now threatened with extinction, may become so unless trade is closely monitored. eg. whales, big cats, tortoises, fur seals, dolphins, fur seals, birds of paradise, black coral, birdwing butterflies.
- Only requires export permit or re-export cert.
- No import permit required.
- Limited number of export permits.



# CITES



- **Appendix III**
- Species which an individual country wishes to give special protection.
- Requires export permit and certificate of origin.

Note : **Reservations allowed** by individual countries

**Each country must pass a law to implement CITES**



## CITES - 3 agencies are involved for each country :

### 1. Management Authority –

- manages the system of permits for import/export/re-export;
- compiles statistics of trade in endangered species
- inspects wildlife consignments at points of entry/exit

### 2. Scientific Authority –

- Advises Management Authority on whether trade may endanger survival of the species.
- It has the right to veto exports of CITES specimens when such exports may endanger the survival of the species

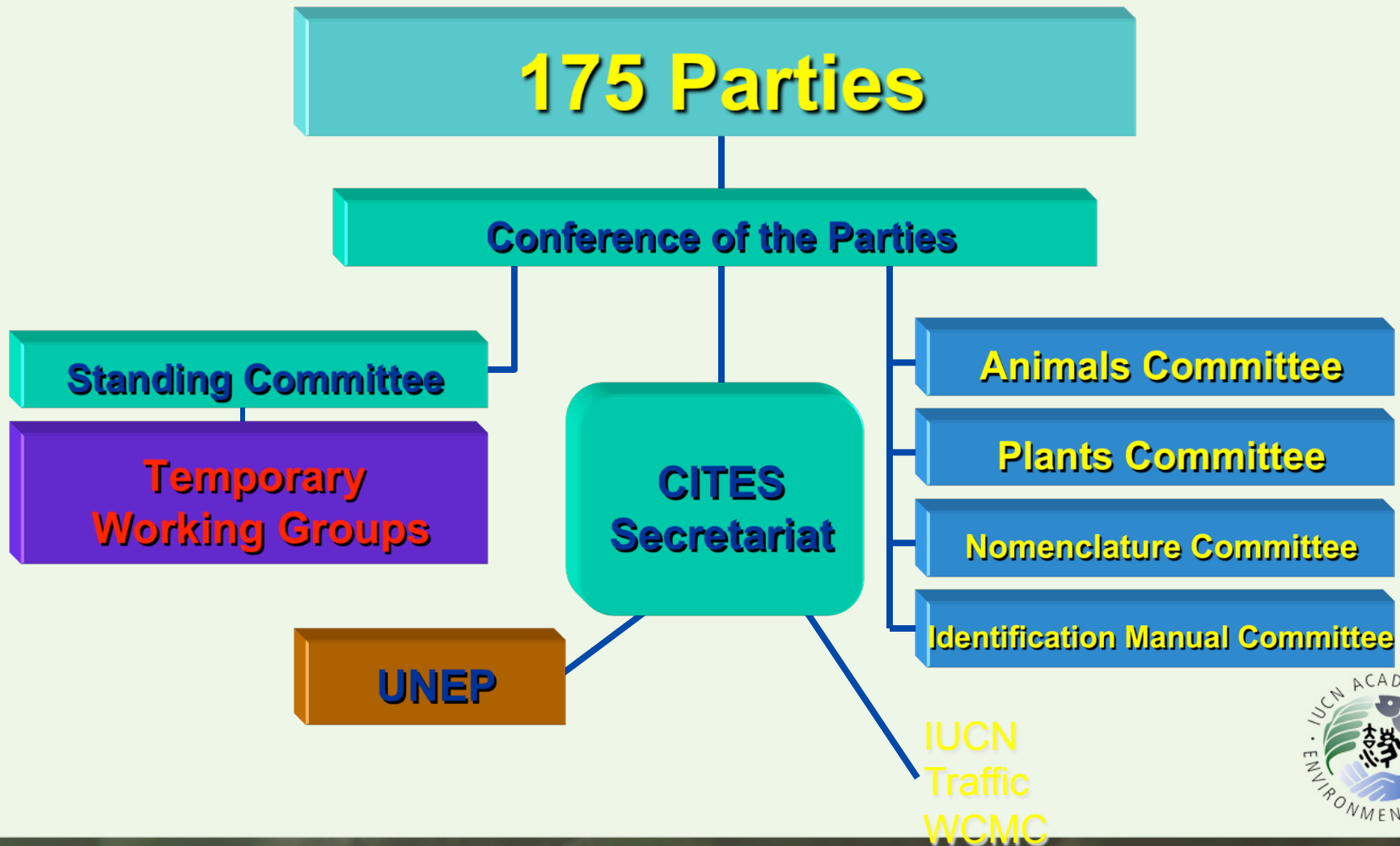
### 3. Customs – Enforcement





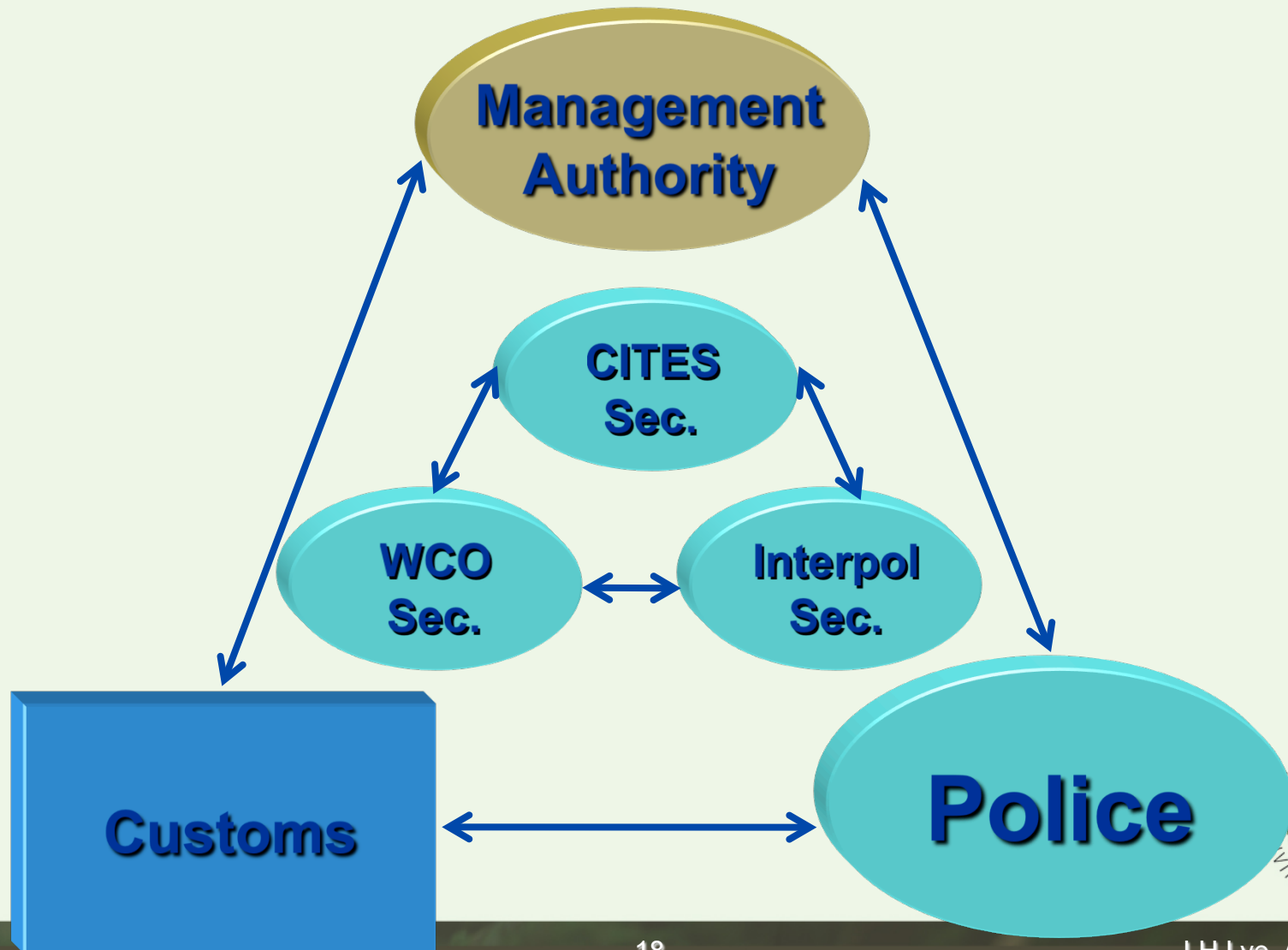
# The Working Structure of CITES

(a)



# International Enforcement Network

(b)



## CITES - CRITICISMS

- 1. Enforcement - requires intensive training of officers, customs etc.
- 2. Constant updating of Appendices requiring constant updating of national laws
- 3. Only 15% of parties have adequate legislation to implement
- 4. Resolutions of COP not binding on parties, not enforceable unless local implementing legislation passed
- 5. Transits and transshipments excluded by Art. VIII.
- 6. Focuses too much on trade - does not address other causes for loss/extinction of species eg. habitat destruction
- 7. Does not address welfare of animals - no standards for transportation of wildlife.  
COP recommended IATA Guidelines when transhipped by air.
- 8. Not all countries are parties. Q Taiwan.



# CONVENTION ON BIOLOGICAL DIVERSITY, 1992

- Arose out of worldwide concern over loss of genes, species and ecosystems.
- Signed at Rio in 1992. 196 parties (2017).
- CBD acknowledges that biodiversity provides the foundation for sustainable development and that its conservation goes beyond merely protecting it from human impact. Its conservation requires proactive steps.
- CBD provides a framework for global action to conserve and sustainably use biological diversity.
- Main objectives - Art. 3
  - \* the conservation of biological diversity
  - \* the sustainable use of its components
  - \* the fair and equitable sharing of the benefits arising from the use of genetic resources.



# CBD

- Under the Convention, governments undertake to conserve and sustainably use biodiversity.
- They are required to develop national biodiversity strategies and action plans, and to integrate these into broader national plans for environment and development.

Other obligations include :

- Identifying and monitoring the important components of biological diversity that need to be conserved and used sustainably.
- Establishing protected areas to conserve biological diversity while promoting environmentally sound development around these areas.
- Rehabilitating and restoring degraded ecosystems and promoting the recovery of threatened species in collaboration with local residents.
- Respecting, preserving and maintaining traditional knowledge of the sustainable use of biological diversity with the involvement of indigenous peoples and local communities.



## Other Obligations of the government

- Preventing the introduction of, controlling, and eradicating alien species that could threaten ecosystems, habitats or species.
- Controlling the risks posed by organisms modified by biotechnology.
- Promoting public participation, particularly when it comes to assessing the environmental impacts of development projects that threaten biological diversity.
- Educating people and raising awareness about the importance of biological diversity and the need to conserve it.
- Reporting to the Secretariat on how the country is meeting its biodiversity goals.



# CBD – Cartagena Protocol

- The *Cartagena Protocol on Biosafety* governs the movements of living modified organisms (LMOs) resulting from modern biotechnology from one country to another.
- Adopted on 29 January 2000, in force 11 September 2003.
- Seeks to protect biological diversity from the potential risks posed by living modified organisms resulting from modern biotechnology.
- Establishes an advance informed agreement (AIA) procedure for ensuring that countries are provided with the information necessary to make informed decisions before agreeing to the import of such organisms into their territory (Precautionary Principle)
- Also establishes a Biosafety Clearing-House to facilitate the exchange of information on living modified organisms and to assist countries in the implementation of the Protocol.



## CBD - Nagoya Protocol

- The *Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the CDB* aims at sharing the benefits arising from the utilization of genetic resources in a fair and equitable way.
- In force 12 Oct 2014.
- Thailand has not ratified.



# World Heritage Convention

- 193 parties as of Jan 2017 (Thailand acceded Sept 1987)
- **Mission of World Heritage Committee**
  - help States Parties safeguard World Heritage properties by providing technical assistance and professional training;
  - provide emergency assistance for World Heritage sites in immediate danger;
  - support States Parties' public awareness-building activities for World Heritage conservation;
  - encourage participation of the local population in the preservation of their cultural and natural heritage;
  - encourage international cooperation in the conservation of our world's cultural and natural heritage.



## World Heritage Convention

- Basis – universal heritage of mankind
- “World Heritage sites belong to all the peoples of the world, irrespective of the territory on which they are located.”
- Includes man-made sites as well as natural sites
- Convention text - <http://whc.unesco.org/archive/convention-en.pdf>
- Article 8 – Intergovt Committee called World Heritage Committee is established, comprising 15 elected States Parties
- The **World Heritage Committee**, the main body in charge of the implementation of the Convention, has developed precise criteria for the inscription of properties on the **World Heritage List** and for the provision of international assistance under the **World Heritage Fund**.
- These are all included in a document entitled 'Operational Guidelines for the Implementation of the World Heritage Convention'.



## SAVING THE EARTH – ETHICS AND NATURE CONSERVATION

- **WORLD CHARTER FOR NATURE** – – adopted by UN General Assembly 1982, 5 general principles

<http://www.un.org/documents/ga/res/37/a37r007.htm>

- 1. GENERAL PRINCIPLES 1. Nature shall be respected and its essential processes shall not be impaired.
- 2. The genetic viability on the earth shall not be compromised; the population levels of all life forms, wild and domesticated, must be at least sufficient for their survival, and to this end necessary habitats shall be safeguarded.
- 3. All areas of the earth, both land and sea, shall be subject to these principles of conservation; special protection shall be given to unique areas, to representative samples of all the different types of ecosystems and to the habitats of rare or endangered species.



## World Charter for Nature, 1982 (contd)

- 4. Ecosystems and organisms, as well as the land, marine and atmospheric resources that are utilized by man, shall be managed to achieve and maintain optimum sustainable productivity, but not in such a way as to endanger the integrity of those other ecosystems or species with which they coexist.
- 5. Nature shall be secured against degradation caused by warfare or other hostile activities.



# The Earth Charter

- The **Earth Charter** is an international declaration of fundamental values and principles considered useful by its supporters for building a just, sustainable, and peaceful global society in the 21st century.
- Created by a global consultation process, and endorsed by organizations representing millions of people, the Charter "seeks to inspire in all peoples a sense of global interdependence and shared responsibility for the well-being of the human family, the greater community of life, and future generations."
- It calls upon humanity to help create a global partnership at a critical juncture in history. The Earth Charter's ethical vision proposes that environmental protection, human rights, equitable human development, and peace are interdependent and indivisible.
- The Earth Charter Initiative organization exists to promote the Charter.



## THE EARTH CHARTER

[http://www.earthcharterinaction.org/2000/10/the\\_earth\\_charter.html](http://www.earthcharterinaction.org/2000/10/the_earth_charter.html)

- We stand at a critical moment in Earth's history, a time when humanity must choose its future. As the world becomes increasingly interdependent and fragile, the future at once holds great peril and great promise.
- To move forward we must recognize that in the midst of a magnificent diversity of cultures and life forms we are one human family and one Earth community with a common destiny.
- We must join together to bring forth a sustainable global society founded on respect for nature, universal human rights, economic justice, and a culture of peace.
- Towards this end, it is imperative that we, the peoples of Earth, declare our responsibility to one another, to the greater community of life, and to future generations.

