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पर्यावरण एवं वन मंत्रालय

GOVERNMENT OF INDIA

MINISTRY OF ENVIRONMENT & FORESTS

पर्यावरण भवन, सी. जी. ओ. कॉम्प्लेक्स,

PARYAVARAN BHAWAN, C.G.O. COMPLEX

लोदी रोड़, नई दिल्ली-११०००३

LODI ROAD, NEW DELHI-110003

D.O.No. J-18013/24/87-IC.

Dated 18 October, 1989.

Dear Shri Swaminathan,

Kindly refer to D.O. letter No. J-18013/24/87-IC dated 12th September, 1989 from Secretary, Environment & Forests regarding the draft umbrella convention on preservation of bio-diversity.

2. Your views and comments may kindly be expedited, since negotiations on the convention are to begin in the near future.

With regards,

Yours sincerely,

Dr. M.S. Swaminathan,
11 - Ratna Nagar,
Teynampet,
MADRAS - 600 018.

(K. Madhava Sarma)



SUBMITTED TO THE
15th SESSION OF THE UNEP GOVERNING COUNCIL

THE PROPOSED INTERNATIONAL CONVENTION
TO CONSERVE BIOLOGICAL DIVERSITY

Definition

1. 'Biological diversity' encompasses all species of plants, animal and microorganisms and the ecosystems of which they are part. It is an umbrella term for the degree of nature's variety including both the number and frequency of ecosystems, species, or genes in a given assemblage. It is usually considered at three different levels, 'genetic diversity', 'species diversity', and 'ecosystem diversity'. Genetic diversity is a concept of the variability within a species, as measured by the variation in genes (chemical units of hereditary information that can be passed from one generation to another) within a particular species, variety, subspecies, or breed. Species diversity refers to the variety of living organisms on earth, variously estimated to be between 5 and 30 million or more, though only about 1.4 million have actually been described. Ecosystem diversity relates to the variety of the habitats, biotic communities and ecological processes in the biosphere.

Threats to Biological Diversity

2. Much of the world's biological diversity occurs in the tropical zones and especially in forest habitats. Ancient and large islands that were formerly part of continental masses (among which Madagascar is pre-eminent) are also major centres of diversity, while oceanic islands in general are commonly rich in distinctive species.
3. This diversity is being diminished by the human transformation of natural habitats and especially by tropical forest conversion at a rate of some 11 million hectares a year. Loss of habitat implies loss either of species or of part of the genetic variation within species.

The Significance of Loss of Biological Diversity

4. The earth's richness of nature matters to human society in many ways. As the World Charter for Nature adopted by the General Assembly of the United Nations in 1982 emphasizes, "every form of life is unique, warranting respect regardless of its worth to man, and to accord other organisms such recognition, man must be guided by a moral code of action". At the practical level, the global biological heritage is the living foundation of both the present and the future. Living organisms maintain the oxygen in the atmosphere and the cycling of essential elements. Crop breeders have continual recourse to the wild for genetic material to be used in the development of new strains. A high proportion of pharmaceutical substances have been derived from wild plants. The loss of biological diversity threatens these and other vital industries. Only about 150 of the estimated 265,000 species of plants are used widely as sources of food and only about 5,000 have ever been cultivated for this purpose. Clearly thousands more have untested and unused potential.

The International Nature of the Problem

5. Biological diversity is being lost as a result of a wide range of human actions. Forest clearance and wetland drainage in developing countries pose the largest threats but many other transformations are involved. These changes are impelled partly by the needs of people for food, fuel, and other products and partly by international economic factors. Whatever their cause, they imperil a resource of genuinely international concern.
6. Remedial action also needs to be international. The greater part of the world's untapped biological diversity is located in developing countries with scanty resources for conservation. The greater part of the profits from exploiting biological diversity accrues to the developed countries. Migratory species move between both. Biological evolution knows no frontiers. The biological riches of the earth are genuinely a matter of common concern to all. While much conservation action has to be taken nationally, a wider international framework is indispensable.

Actions to Protect Biological Diversity

7. A number of existing international agreements, and an extensive series of national conservation laws are contributing to the protection of biological diversity. Four kinds of measures have been taken:
 - (a) measures to protect particular habitats as National Parks, Biosphere Reserves or other protected areas;
 - (b) measures to protect particular species or groups from destructive exploitation;
 - (c) measures to promote *ex situ* conservation of species, for example in Botanic Gardens, through captive breeding programmes or in gene banks;
 - (d) measures to curb the contamination of the biosphere with pollutants.
8. The most important international instruments are the Ramsar Convention on Wetlands of International Importance especially as Waterfowl Habitat, the CITES Convention on International Trade in Endangered Species of Wild Fauna and Flora, the Bonn Convention on Conservation of Migratory Species of Wild Animals and the Convention Concerning the Protection of the World Cultural and Natural Heritage. These are all, however, inherently limited in application however liberally their texts are now being interpreted. Ramsar is confined to wetland habitats and there is no global measure on the forests that are at greatest risk. CITES is essentially about trade in species. Bonn deals only with migratory organisms. The World Heritage natural sites are seen as "jewels in the crown". Collectively, their coverage is partial and none has been designed to conserve biological diversity as a primary objective. Likewise, the international Conventions on pollution favour conservation of living organisms as a consequential benefit rather than a main aim. Similarly, an undertaking made by many States under the auspices of FAO, while valuable especially in promoting the protection of plants of potential value in cultivation, extends over only a part of the total pool of biological diversity and also lacks legal force.

The Adequacy of Existing Measures

9. There are good reasons for believing current losses of biological diversity to be unacceptably great. The threat to potential medicinal plants and to the wild reservoirs of genetic diversity important in the breeding of new crop plants and domestic animals is a real one. Against this yardstick, present measures are clearly not adequate. So there is a considerable case for strengthening, expanding and supplementing existing instruments.
10. This could be done in five ways:
 - (a) expanding the number of countries party to those instruments, thereby enhancing their geographical coverage;
 - (b) ensuring their effective application, in part by reviewing the interpretation of Articles where ambiguity is permitting laxity in enforcement and in part by punctilious national measures to apply their provisions;
 - (c) possible renegotiation of the Conventions to extend their collective scope;
 - (d) coordination between the Steering/Standing Committees and Secretariats, so that the Conventions are operated as more of an integrated whole and economies of scale are achieved in their operation;
 - (e) negotiation of a new global Convention on the Conservation of Biological Diversity.
11. IUCN does not believe possible renegotiation of the Conventions to be practicable. Each Convention has different Contracting Parties. Renegotiation would be laborious and most unlikely to create pieces that composed a total jig-saw pattern. The value of existing actions under the Conventions would be put in jeopardy.
12. IUCN does consider that all the other activities listed in Paragraph 10 merit active pursuit. The Union has already held one meeting with the Secretariats of the main Conventions and will maintain regular contacts with them with a view to facilitating action (d).

The Case for a New Convention

13. We consider that there is in addition a strong case for pursuing a new global Convention. This judgement has been affirmed at two IUCN General Assemblies, which have adopted resolutions committing the Union to this course.
14. In pressing this conclusion, IUCN emphasises that it is only interested in an instrument that is truly effective. A Convention must not be adopted as a substitute for action, or it will blunt and deflect the efforts the world needs. Accordingly (and following a recent UNEP expert workshop), we urge that any Convention should only proceed if it:
 - (a) has a sound basis in science;
 - (b) is truly comprehensive in scope, covering *in situ* and *ex situ* conservation and the protection of the biosphere from all significant damaging impacts, and is in harmony with and supplements existing Conventions in this broad field;
 - (c) is practical in defining obligations and goals, leaving the Contracting Parties the responsibility of achieving them;

- (d) has the commitment of Governments to funding at a realistic level;
 - (e) provides realistically for the transfer of resources to allow implementation of the Convention by the poorer countries which are also the custodians of much of the biological heritage of the earth;
 - (f) is capable of catalysing and coordinating the efforts of Governments and other agencies under other Conventions in this field.
15. IUCN has developed a draft series of Articles for a Convention as a basis for discussion. This draft is based on three fundamental premises:
- (a) that the States Parties accept an obligation to conserve biological diversity as a matter of common concern to humanity;
 - (b) that they accept an obligation to allow access to the biological resources within their countries so that their potential value can be assessed;
 - (c) that they establish an effective machinery (including financial machinery) to support conservation of biological diversity *in situ*.
16. As means to this end the draft Articles propose:
- (a) national surveys and inventories to define key areas for biological diversity;
 - (b) the establishment of a World List of the most outstanding sites, based on objective scientific criteria agreed internationally;
 - (c) the acceptance by States of an obligation to conserve listed sites;
 - (d) practical action by States to conserve biological diversity outside the listed sites by a range of regulatory actions including controls on the taking of plants and animals; measures to promote conservation *ex situ* e.g. in botanic gardens; measures to regulate pollution; measures to control invasion by introduced or genetically modified organisms and regulation of development (including the adoption of Environmental Impact Assessment Measures for any development affecting key sites).
17. The Convention would be operated by a Conference of the Contracting Parties. It would establish an Advisory Committee of independent experts to prepare the programme of action including the World List. There would also be an International Fund based on voluntary contributions and payments from the commercial exploiters of biological diversity. This Fund would make payments to support the conservation and management of key protected areas and sites, and also to favour sustainable development projects that drew pressure off such sites. To be effective the Fund would have to be of real significance: one estimate is that US\$500 million per year is needed to guarantee the proper management of the *existing* designated protected areas.

Financing a Convention

18. A Fund could draw on four main sources:

- (a) levies on activities which use a resource within the biosphere as a dispersion system (for example, for carbon dioxide from fossil fuel combustion);
- (b) levies on general trade in natural living materials or products derived directly from them;

- (c) levies on patentable new genetic material, or on synthetic products derived from wild sources;
 - (d) voluntary contributions, gifts, or bequests made by any State, intergovernmental organizations (including development aid agencies), or public or private bodies or individuals.
19. A key element is persuading those paying the money that the charge was equitable and would be used in an effective fashion from which they would benefit, perhaps based on the principle that development is dependent on ensuring that biological resources are used sustainably, and that depletion of such resources is an externalized cost. The proposed charges for conservation would then be seen as an internalization of cost, and as a provision for future welfare and benefit. Establishing the administrative machinery within user countries would probably be most effective, with the funds being transferred via an international fund to conservation efforts in the countries of origin. Target industries might include timber (the European timber traders have already proposed a voluntary import duty, with the proceeds to be administered by ITTO), seeds, pharmaceuticals, fossil fuel burners, and tourism.

The Position of the World Conservation Union

20. The Union accepts that these proposals will not win easy agreement and that there are substantial issues to resolve. It considers that a thorough process of discussion will be needed before a meaningful global Convention on the Conservation of Biological Diversity is ready for adoption by the world community. Nonetheless, given the tide of loss, it is important that a serious view of the options is taken now. In the Union's view, any new instrument must at least provide for access to biological resources so that their potential value to humanity can be assessed, and on the other hand for a reasonable provision for payment by those who benefit principally from the exploitation of such resources to those on whom the main burden of their conservation falls. Such a process, by placing an economic value on wild species as resources, is most likely to cause their custodians to cherish them as assets.
21. IUCN considers that the next stage should be one that, recognizing the need for further action to conserve biological diversity, looks critically at the scope for enhancing the collective effectiveness of existing instruments and in parallel at the need for, content of, and financial mechanisms for a meaningful new instrument. It will be IUCN's concern, pursuant upon the mandate from its General Assembly, to develop such an instrument in the light of such discussions.

UN/GC Resolution

15/34. Preparation of an international legal instrument on the biological diversity of the planet

The Governing Council

Having considered the report of the Executive Director on rationalization of international conventions on biological diversity,

Bearing in mind that, as stated in the note by the Executive Director on rationalization of international conventions on biological diversity, submitted to the Ad Hoc Working Group of Experts on Biological Diversity at its first session, biological diversity encompasses all species of plants, animals and micro-organisms and the ecosystems of which they are part,

Recognizing the need to conserve biological diversity on Earth by, inter alia, the implementation of existing legal instruments and agreements in a co-ordinated and effective way and the adoption of a further appropriate international legal instrument, possibly in the form of a framework convention,

Recognizing that, for environmental, ethical, social, economic and technical reasons, the conservation and utilization of biological diversity is more than ever essential for environmentally sound and sustainable development, and continued functioning of the biosphere and human survival,

Aware of the establishment of the Commission on Plant Genetic Resources and of the ongoing work of the International Union for Conservation of Nature and Natural Resources regarding draft articles for possible inclusion in the proposed international legal instrument on the biological diversity of the planet,

Agreeing that the full implications of the new biotechnologies should be taken into account in any international legal instrument on the conservation of the biological diversity of the planet,

1. Notes with appreciation the actions taken by the Executive Director pursuant to Governing Council decision 14/26 of 17 June 1987;

2. Agrees that the impoverishment of biological diversity and the consequent loss of natural resources of great potential economic value is a problem with global dimensions that calls for sustained multilateral co-operation towards its solution;

3. Urges the Executive Director to continue to support, within available resources, actions to promote effective co-operation in the implementation of existing international instruments and agreements in this field;

4. Notes that the economic dimension, including, inter alia, the question of adequate machinery for financial transfers from those who benefit from the exploitation of biological diversity, including through the use of genetic resources in biotechnology development, to the owners and managers of biological resources, and appropriate measures to facilitate the transfer of technical means of utilizing biological diversity for human benefit, will need to be properly considered in the negotiations of any future legal instrument for the conservation of biological diversity;

5. Requests the Executive Director to convene, within available resources, in close co-operation with other appropriate international organisations including the Food and Agriculture Organization of the United Nations, the United Nations Educational, Scientific and Cultural Organization, the World Intellectual Property Organization, the International Board on Plant Genetic Resources and the International Union for Conservation of Nature and Natural Resources, additional working sessions of the Ad Hoc Working Group of Experts on Biological Diversity to consider the technical content within a broad socio-economic context of a suitable new international legal instrument and other measures that might be adopted for the conservation of the biological diversity of the planet;

6. Authorizes the Executive Director, on the basis of the final report of the Ad Hoc Working Group of Experts, to convene, in consultation with the Governments and within available resources, an ad hoc working group of legal and technical experts with a mandate to negotiate an international legal instrument for the conservation of the biological diversity of the planet;

7. Calls upon Governments that are in a position to do so to provide the necessary financial and technical resources to enable the full and effective functioning of the ad hoc working groups and, in particular, the full and effective participation of the developing countries;

8. Requests the Executive Director, subject to the availability of resources, to expedite the work of the ad hoc working groups as a matter of urgency with the aim of having the proposed new international legal instrument ready for adoption as soon as possible;

9. Further requests the Executive Director to submit a progress report on the subject at the first session of the preparatory committee for the 1992 United Nations conference on environment and development, provided it is established by the General Assembly, and to the Governing Council at its sixteenth regular session.

12 meeting
25 May 1989