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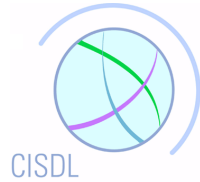


The Center for International Sustainable Development Law
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present:

Linking Climate Change with Biodiversity-Related Multilateral Environmental Agreements

Josh Roberts



LINKING CLIMATE CHANGE WITH BIODIVERSITY-RELATED MULTILATERAL ENVIRONMENTAL AGREEMENTS¹

Josh Roberts²

I. Introduction

Climate change is undoubtedly one of the most transformative issues of the twenty-first century. Unlike previous environmental problems, the effects of climate change are global in scope and cut across many different sectors. As such, climate change is not singular task that can be left to any one specialized agency. The United Nations Framework Convention on Climate Change (UNFCCC) is just one piece of the puzzle, and its efforts to mitigate and adapt to climate change were not intended to substantively address biodiversity concerns. Therefore, we should be asking ourselves: to what extent are biodiversity-related Multilateral Environmental Agreements (MEAs), like the Convention on Biological Diversity (CBD), the Convention on Combating Desertification (CCD) and the Convention on Wetlands of International Importance (Ramsar), incorporating climate change concerns? Moreover, to what extent are these agreements and the UNFCCC working to create more synergies with each other? This note highlights recent efforts by biodiversity-related MEAs to integrate climate change into their programmes of work. It concludes by insisting that these MEAs should continue creating synergies in appropriate areas with the UNFCCC as a post-Kyoto regime is developed.

II. The Convention on Biodiversity

On one hand, climate change is a major threat to biodiversity. Changes in climate exert additional pressure on, and have already affected biodiversity.³ Moreover, ten per cent of species will face an increasingly high risk of extinction for every one degree Celsius increase in global mean surface temperature.⁴ Destruction of biodiversity also contributes to climate change. For instance, the current rate of deforestation, degradation and other forms of land use contribute approximately one fifth of total greenhouse gas emissions.⁵ On the other hand, halting deforestation and preserving biodiversity can contribute significantly to climate change mitigation by developing a carbon sink. Moreover, biodiversity conservation can help build ecosystem resiliency and assist in adapting to the effects of climate change.

¹ The first draft of this Note was produced through consultation with legal officers and climate change experts at the Environmental Law Center (ELC) of the International Union for Conservation of Nature (IUCN) in Bonn, Germany in preparation for U.N. climate change negotiations in Copenhagen, December 2009.

² Legal Research Fellow, CISDL. Special thanks are due to Jane Bulmer, UNFCCC, and other members of the ELC of IUCN that provided assistance.

³ "2010 Calls for New Biodiversity Targets, Co-Chairs report of the Conference", 6th Trondheim Conference on Biodiversity, 1 – 5 February 2010, online: < <http://www.trondheimconference.org> >, at 10.

⁴ *Id.*

⁵ IPCC, *Fourth Assessment Report* (Cambridge: Cambridge University Press, 2007).

At the 2010 Trondheim Conference on Biodiversity,⁶ it was noted that biodiversity messages are generally unheard over the loud voices on economic issues and climate change and that it might be useful for biodiversity to “piggy-back on the climate change momentum” to a certain extent.⁷ This was echoed in the CBD’s Third *Global Biodiversity Outlook*, which emphasized that the linked challenges of biodiversity loss and climate change must be addressed with equal priority and in close coordination if the most severe impacts of each are to be avoided.⁸

The decisions made at the Tenth Conference of the Parties (COP-10) to the CBD in Nagoya very much reflected this outlook. While the Parties came to a number of climate change-related decisions at the conference, I will highlight only the most significant ones.

Reducing Emissions from Deforestation and Forest Degradation (REDD/REDD+)

REDD+ will have significant implications for biodiversity. Therefore, prospects of an agreement in Cancun on the initial phases of a scheme have made it worthy of attention by the CDB. In Nagoya, the COP called for the development of relevant “safeguards” for biodiversity so that actions under REDD+ will be consistent with CBD objectives, avoid negative impacts and ensure the realization of benefits for nature and biodiversity-based livelihoods.⁹ This includes identifying possible indicators to assess contributions from REDD+ projects towards the objectives of the CBD. These safeguards will be further decided upon at the next COP in 2012. The COP also requested a compilation of case-studies from Parties on the integration of biodiversity into climate change-related activities and development of guidance on how to create synergies between national forest-related biodiversity and climate change measures.¹⁰ Furthermore, the Secretariat was asked to convene an expert workshop, in collaboration with the Secretariat of the UNFCCC on REDD+ and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries in order to coordinate capacity-building efforts on these issues.¹¹

These developments are very important. Depending on where REDD+ projects are located, they may result in lowered emissions, yet be harmful to biodiversity. For instance, REDD+ projects targeted towards land where biodiversity is low could intensify pressures on other areas richer in biodiversity. Ideally, REDD+ strategies should strike a balance between objectives of mitigation and biodiversity conservation. Furthermore, effective consultation with local communities that depend on biodiversity for survival and inclusion of methods aimed at alleviating poverty and sharing benefits should be utilized.

Ecosystem-Based Approach

The Parties called for the integration of ecosystem based approaches for adaptation into relevant strategies, *inter alia* National Action Plans (NAPs) to combat desertification and national biodiversity strategies and action plans.¹² This should result in an integrated approach to conservation at the national level, placing human needs at the centre of biodiversity

⁶ The May 2010 Trondheim Conference was aimed at taking lessons from the 2010 biodiversity targets and establishing a basis for the development of post-2010 targets by the CDB in the next half of the year.

⁷ “Taking on the Biodiversity Targets” (2010) 40 *Envtl. Pol’y & L.* 75 at 76.

⁸ CBD and UNEP-WCMC, May 2010; available online at: < <http://gbo3.cbd.int> >.

⁹ CBD COP-10, Decision on Biodiversity and Climate Change at para. 9(h). Access the Decision (Advance Unedited Text) at: < <http://www.cbd.int/nagoya/outcomes/> >.

¹⁰ *Id.* at para. 9(m).

¹¹ *Id.* at para. 9(f).

¹² *Id.* at para. 8(l)(n).

management and making sure that ecosystem services and biodiversity-based livelihoods are maintained. It has important implications for indigenous peoples and local communities that depend on biodiversity for their survival, and gives them a special role in addressing climate change and conservation objectives, especially under mechanisms such as REDD+.

Synergies with the UNFCCC

In 2004, the COP to the CBD called for synergies between itself and the UNFCCC – including its Kyoto Protocol.¹³ In addition, the Parties called for increased mutual cooperation and support among the Rio Conventions¹⁴ and Ramsar.¹⁵ The COP also established an *Ad Hoc* Technical Expert Group on Biological Diversity and Climate Change to collaborate with the Intergovernmental Panel on Climate Change (IPCC).¹⁶

In order to implement these decisions, the Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA) developed draft guidelines on how to integrate relevant climate change impacts and response activities into the CBD's different programmes of work.¹⁷ The SBSTTA also set up an adaptation planning database, providing technical and scientific guidance on the links between conservation of forest biodiversity and climate change within the framework of REDD, and the links between biodiversity, water, wetlands and climate change.

In Nagoya, the COP expanded the mandate for cooperation. While there was talk of developing a comprehensive Joint Work Program with the other Rio Conventions, fear of overlap prevented such action.¹⁸ Nevertheless, the COP requested the Secretariat to develop joint activities with the other Rio Conventions, specifically in the areas of marine and coastal biodiversity, protected areas, biodiversity and climate change, REDD+, agricultural biodiversity, and dry and sub-humid lands.¹⁹ Furthermore, the Parties invited the COPs of the UNFCCC and the CCD to collaborate with the CBD Secretariat through the Joint Liaison Group by convening before Rio+20 in 2012 in order to identify areas for party-driven collaboration. The results of these meetings would be submitted to the next COPs of the three Conventions for consideration.²⁰

There is a growing need to develop and implement policies to ensure that UNFCCC objectives do not intrude into the objectives of the CBD and *vice versa*. Furthermore, there are overlapping aspects of both conventions that leave room for synergies. Cooperation between these conventions should increase, as REDD+ and other forthcoming mitigation and adaptation mechanisms that have substantial impacts on biodiversity come into being.

¹³ CBD COP Decision VII/15.

¹⁴ The Rio Conventions refer to the three main conventions that were adopted at the 1992 United Nations Conference on Environment and Development (UNCED) in Rio de Janeiro: the UNFCCC, the CBD, and the UNCCD.

¹⁵ CBD COP Decision IX/27.

¹⁶ CBD COP Decision IX/16, para 12.

¹⁷ CBD CIO Decision VIII/30.

¹⁸ "Summary of the Tenth Conference of the Parties to the CBD, 18 – 29 October 2010," IISD Reporting Services, Vol. 9, No. 544, online: < <http://www.iisd.ca/vol09/enb09544e.html> >.

¹⁹ CBD COP-10, Decision on Cooperation with other Conventions and International Organizations and Initiatives.

²⁰ *Id.*

III. The United Nations Convention on Combating Desertification

There are intricate linkages that exist between climate change and frequent and severe droughts, land degradation and desertification. Drylands constitute a significant sink for carbon and have potential to increase carbon sequestration, given their current degraded status and expanse. However, soil processes such as erosion, salinization and depletion of soil fertility can result in less vegetative cover biomass returned to the soil, which contributes to climate change.²¹

In its 10-year strategic plan, the CCD recognized the links between desertification and drought, climate change, and biodiversity conservation.²² The Secretariat for the CCD has taken efforts to increase cooperation between the Rio Conventions, developing operational programmes and coordinating assistance for implementation of the conventions, particularly at national levels. It has also been actively involved in climate change negotiations within the *Ad Hoc* Working Group on Long-term Cooperative Action (AWG-LCA) of the UNFCCC, submitting policy proposals to include carbon contained in soils to replenish soil carbon pools, restore soil fertility and sequester carbon dioxide in the climate change regime.

Sustainable Land Management (SLM)

Scientific researchers have continued to research the links between soil, land use and climate change. At the Ninth COP to the CCD in 2009, the Committee of Science and Technology argued that sustainable land management (SLM) monitoring and assessment must be integrated into desertification, land degradation and drought monitoring and assessment.²³ SLM consists of such practices as reforestation, improved water management, integrated soil fertility management, conservation agriculture and improved rangeland management, which are all possible methods for mitigation and adaptation to climate change.²⁴ Therefore, SLM has relevance under both the CCD and the UNFCCC, especially if it can be monitored and assessed.

To enhance synergy between the UNFCCC and the CCD, a pilot strategy of joint National Adaptation Programmes of Action (NAPAs) and NAPs in least developed countries (LDCs) under the UNFCCC has been developed. The objective of this strategy is to demonstrate the role of SLM in addressing climate change, and its relevance to implementation and planning tools contained in the NAPAs and NAPs under both conventions.²⁵ Under this strategy, the Secretariats from both conventions will pick a number of LDCs to receive coordinated services that will contribute to their implementation of both conventions. This could be a much needed boost for the CCD, since, due to a lack of consistent funding, many Parties under the CCD have not yet been able to complete their NAPs. Furthermore, the NAPs that have been completed to date have not paid adequate attention to climate change. If climate change considerations were incorporated into future NAPs, their political profiles could increase, provide more opportunities for funding and assist in adaptation efforts.

²¹ J. McNeely, "Applying the Diversity of International Conventions to Address the Challenges of Climate Change" (2008) 17 Mich. St. J. Int'l L. 123, at 129.

²² CCD Decision 4/COP.8

²³ S. Augilar, "Suffering Institutional Deadlock", *Envtl. Pol'y & L.*, 39 (2009).

²⁴ Terra Africa, "Land & Climate: The Role of Sustainable Land Management for Climate Change Adaptation and Mitigation in Sub-Saharan Africa", online:
< http://www.africacimatesolution.org/features/Land_Climate_Executive_Summary.pdf >.

²⁵ UNFCCC and UNCCD, "Integration of UNCCD National Action Programmes (NAP) with UNFCCC National Adaptation Plans of Action (NAPAs)" (Bonn, 2010, online at:
< <http://www.unccd.int/actionprogrammes/menu.php> >.

IV. The Convention on Wetlands of International Importance (Ramsar Convention)

The Ramsar Convention has an understated role to play in sequestering carbon and adapting to the effects of climate change, or, in the alternative, towards contributing to carbon emissions. Healthy wetland ecosystems can serve as buffer zones for extreme weather events, and are also more resilient to changes in climate. Furthermore, wetlands can sequester about thirty-seven per cent of the terrestrial carbon pool.²⁶ According to Jon Kusler, associate director of the *Association of State Wetland Managers*, “[t]he existing storage of carbon in wetlands approaches the amount of carbon you have in the atmosphere.”²⁷ Much of this is locked up in peat. The destruction of wetlands however results in the release of greenhouse gases such as methane, a much more potent greenhouse gas than carbon dioxide.

In Resolution VII.4 entitled “Partnerships and Cooperation with other Conventions,” the COP to Ramsar signed a Memorandum of Understanding with the UNFCCC, recognizing the important role of wetlands in addressing climate change threats to Small Island Developing States (SIDS). Furthermore, in 2008, the Tenth COP discussed the adoption of a resolution on climate change and wetlands. The COP to the CBD has also noted the importance of biological diversity of inland water ecosystems, recognizing that the Ramsar Convention’s work on wetlands and peatlands is vital in mitigating and adapting to the effects of climate change.²⁸ To this effect, Ramsar has been included in Joint Liaison Group meetings between the Rio Conventions to further collaborate on climate change issues.

Depending on the outcome of future climate change negotiations, the Ramsar Convention may play a larger role in mitigation and adaption against climate change. There are currently proposals to include wetland restoration and degradation as an optional Land Use, Land Use Change and Forestry (LULUCF) activity under article 3.4 of the Kyoto Protocol. Furthermore, there is mounting support for inclusion of forested tropical peatlands under REDD+, and to take soil carbon losses into account. If such approaches were included in a future climate change regime, this would most certainly give the Ramsar Convention a larger role in mitigation and adaptation.

V. Conclusion

Conventions such as the CBD, the CCD and the Ramsar Convention all have important roles to play in addressing climate change. These and other biodiversity-related MEAs should continue to capitalize on linkages between already existing programmes and climate change concerns in order to raise their political profiles. Furthermore, biodiversity-related MEAs must carry on in developing and implementing policies that promote their objectives without aggravating the causes and effects climate change. Likewise, the UNFCCC needs to make sure programmes such as REDD+ do not thwart current conservation objectives and contribute towards sustainable development. Finally, the UNFCCC must make an effort to incorporate substantive linkages between new or existing programmes and biodiversity-related goals at Cancun and subsequent climate change negotiations.

²⁶ J. McNeely, *supra* note 21, at 132.

²⁷ M. Lenart, “An Unseen Carbon Sink,” *Nature Reports on Climate Change*, Vol. 3, December 2009, online: < www.nature.com/reports/climatechange >.

²⁸ CBD Decision IX/7.

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The CISDL is an independent legal research centre which collaborates with the McGill Law Faculty in engaging students and interested faculty members in sustainable development law research and scholarly initiatives. The CISDL also works in cooperation with a network of developing country faculties of law, and is developing closer ties with the Cambridge University Faculty of Law, the Université de Montreal, Capetown University and the University of Costa Rica. It has guidance from the three Montreal-based multilateral treaty secretariats, the World Bank Legal Vice-Presidency, the United Nations Environment Programme and the United Nations Development Programme, and a memorandum of understanding with the International Institute for Sustainable Development (IISD).

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