



**PROMOTING LAWS FOR BIODIVERSITY – CBD COP 12
Experts' Retreat: Defining Priorities, Actions and Partnerships**

Break out theme 3: Protected Areas and Other Conservation Measures

The Aichi Biodiversity Target 11 reaffirms and emphasizes the need for a nuanced understanding of Protected Areas (PAs) and Other Effective Area-Based Conservation Measure (OECMs) - one that focuses not on strict preservation areas, but PAs supportive of people and their sustainable development. Aichi Biodiversity Target 11 calls for 17% of terrestrial and 10% of marine areas to be conserved by 2020 through systems of PAs and OECMs. It stipulates that the target should be reached with due regard to the following: ecological representativeness, areas of particular importance for biodiversity and ecosystem services, management equity and effectiveness, connectivity conservation, and integration into wider landscapes and seascapes.

Research undertaken by IDLO and its partners illustrates that many CBD Parties have an array of pre-existing legal instruments to increase and improve their systems of PAs and OECMs. However, some of these legal frameworks are not as effective as they might be, particularly in the context of Target 11. A range of deficiencies include: weak legal and institutional frameworks, lack of information to facilitate coherent land use planning, systems of governance and management that suffer from a deficit of equity and effectiveness, and the lack of diversity of conservation measures, such as in transboundary contexts.

These factors are often compounded by pressures of encroachment or degazettement of PAs for economic and industrial activities and governments' perceived economic costs of increasing PAs and OECMs coverage to areas that could otherwise be used for other economic activities. In addition, government-managed PAs are, for a variety of reasons, often viewed with suspicion by indigenous peoples and local communities. Furthermore, development and the effects of climate change are adding new complexities to existing social and ecological systems. These weaknesses, gaps and new challenges require serious and sustained attention hence the need to increase the capacity of those involved in the governance and management of PAs and OECMs. Notwithstanding the above constraints and pressures, this is a time of opportunity for the achievement of Aichi Biodiversity Target 11, for the following reasons:

- The advances in theoretical and practical approaches to landscape, seascape and transboundary conservation provide added opportunities to integrate PAs and OECMs into larger land and resource use plans in various sectors such as agriculture, forestry and mining.
- There are opportunities in the area of national and regional land use regulations that can contribute to ecological representativeness, connectivity conservation and the establishment of areas of importance for biodiversity. These objectives can be achieved through a range of different legal and quasi-legal instruments and approaches, including national conservation and sustainable use legislation, land use planning legislation, voluntary conservation agreements, and community-based conservation.
- The IUCN PA governance types and management categories provide options to achieve the overall terrestrial and marine PA targets. In this regard, new and innovative approaches such as payments for ecosystem services (PES), access and benefit-sharing (ABS), reducing emissions from deforestation and forest degradation (REDD) with REDD+ including the role of conservation, sustainable management of forests as well as enhancement of forest carbon stocks, and voluntary conservation agreements are potentially useful.

- There are renewed efforts to identify marine areas of ecological/biological significance beyond national jurisdiction.

Devising appropriate legal approaches to achieve Aichi Biodiversity Target 11 should be informed by the following considerations:

- Attention should be given to improving and making better use of existing instruments. Most PAs-related laws comprise core elements that can be strengthened, including ensuring the participation of all concerned groups; taking into account traditional knowledge and conventional scientific information; strengthening management, monitoring, and enforcement capacity; modernizing financial accounting; and insisting on broader conservation planning as part of sustainable development.
- Consideration should be given to non-conservation legal tools. Such instruments could include land-use planning and development control laws, including coastal development and zoning; sustainable use laws in agriculture, fisheries, forestry, and water management, as well as laws on public finance, economic incentives and disincentives; and, where applicable, use of innovative market mechanisms such as PES, conservation banking, biodiversity offsets, and tradable development rights.

Questions for Consideration

- What kind of legal approaches/measures have been taken in your country to achieve Aichi Target 11?
- Is your country's legislative framework adequate to achieve the objectives set out in Aichi Target 11 or does it require reform? If so, which areas in particular?
- What are the legal gaps, challenges and barriers to achieving target 11? What are the implementation and enforcement challenges? How have you or plan to address these various barriers and challenges?
- Do you count any indigenous or community governed/managed areas as PAs? If not, why not? What are the associated opportunities and challenges?
- Are there areas in your country that do not meet the CBD/IUCN definition of a PA that could be counted as a OECMs? In your national context, what is an example of an OECM? Is there clarity/confusion at the national level about OECMs, and how could the concept help/hinder greater conservation and sustainable use of biodiversity?
- Is there a feeling of urgency and what are the legal reforms that would support this effort? What partnerships are needed to promote effective solutions and how can IDLO and partners assist?

Session Structure

The discussion will be led by a moderator who will provide a general overview on the themes and key questions for consideration. Following the presentation by the moderator, participants will be invited to express their views on the core themes and suggested questions. Key points discussed during the thematic breakout session will be reported back to the plenary session with the aim to identify the promising legal tools and supportive partnerships needed to assist CBD Parties to make meaningful progress on building legal frameworks to achieve Aichi Biodiversity Target 11.

What is expected?

The session aims at providing a roadmap, identifying the most pressing issues, what successful and innovative actions could be replicated in this field, and what partnerships and new programming are needed to provide support for legal frameworks to achieve Aichi Biodiversity Target 11.