

**Biodiversity Strategy and Action Plan under Convention on Biological Diversity -
Report on Priorities and Recommendations of Legislative Focus Group for
improving the regulatory and institutional framework for conservation in Hong
Kong to meet CBD obligations and the Aichi Targets.**

Introduction

1. **Objective. Improved regulatory and institutional framework for conservation.** The objective of the Legislation Focus Group is to review the legislation, policies and practices relevant to biodiversity conservation and the sustainable use of natural resources in Hong Kong so that priorities for improvement and reform can be identified and Hong Kong complies with best international conservation practice and meets the Articles of the CBD with their specific obligations and the Strategic Goals and Aichi Targets of the Convention on Biological Diversity (CBD). An outcome or achievement under Article 6 and 10(b) of the CBD is for biodiversity conservation, recreation and landscapes protection and CBD principles to be explicitly integrated into the legal and administrative framework of Hong Kong by legislation where possible, and by administrative improvements and sectoral and cross-sectoral policy documents, budgets, plans and actions, technical memoranda, standards and guidelines, practice notes, contracts, standard conditions, leases, and measured by indicators and monitoring systems. **This is High Priority and will be short term and long term. In summary the 15 Actions are**
 - (a) **Countryside and Marine habitats conservation and sustainable use and Country Park Enclave Policy.**
 - (b) **Priority Sites better protection.**
 - (c) **Restoring Land Administration**
 - (d) **Administrative Improvements**
 - (e) **EIA and SEA Improvements**
 - (f) **Red Listing**
 - (g) **Wildlife Law Amendments**
 - (h) **Enforcement Improvements, Wildlife Crime Unit**
 - (i) **Ecological Footprint and Wildlife Trade Regulation**
 - (j) **Ecological Footprint and Sustainable use of natural resources and Ecosystem services**
 - (k) **Local use of natural resources in Hong Kong, Sustainable Agriculture and Marine uses**
 - (l) **Traditional Knowledge, Education, Community Awareness and Participation**
 - (m) **Indicators for progress and measurements of compliance**
 - (n) **Substantial increase in resources and Systems and Institutions to provide for continuing BSAP progress.**
 - (o) **Mainstreaming considerations.**

2. **Hong Kong has obligations under the CBD and existing policy to formulate a BSAP under Article 6(a) and achieve Mainstreaming of the CBD under Article 6 and 10. Many of the CBD Articles and Aichi Targets are relevant to be achieved by this. e.g. T2, 3, 5, 8, 10, 11, 12, 14**

and 17. This Focus Group (FG) considered practical, administrative, legal, and policy solutions for the strategies and actions based on past and current experience and as identified by Working Groups (WGs) and FGs as well as systems and institutions for their long term implementation. **The LFG relies on the evidence of status, threats and gaps revealed and solutions and actions discussed throughout the process by others, especially other FGs, and does not repeat such material except in brief summary.**

3. **Leaders and Experts** include conservation workers, lawyers, administrators, planners, NGO experts in practical conservation which includes planning, land administration, pollution reduction, Environmental Impact Assessments (EIAs), policy and practice submissions, engineering and infrastructure, and BSAP formulation. Meetings have been conducted between FG members as a whole or as per their specific expertise. The threats, drivers of loss, gaps and needs for action have been supported by other FGs and individuals and documented by different groups over many years. **There has been considerable consensus derived from the direct experience of many members of the key threats to conservation and the gaps in the governance and regulatory framework which need to be filled as a priority so that CBD compliant conservation is achieved in the Hong Kong system.** Members of the Legislation Focus Group include:

- (a) Dr Gary Ades, kfgarya@kfbg.org
- (b) Dr Chiu Sein Tuck, seintuck@kfbg.org
- (c) Dr John Fellowes, jrfellowes@yahoo.com
- (d) Miss Woo Ming Chuan, mcwoo@kfbg.org
- (e) Tony Nip, tonynip@kfbg.org
- (f) Allan Hay, allanhay618@gmail.com
- (g) Roger Nissim, rabnissim@gmail.com
- (h) Patrick Lau, plclau@yahoo.com.hk
- (i) Shirley Lee, shirsllee422@gmail.com
- (j) Dr Michael Lau, mlau@wwf.org.hk
- (k) Shirley Poon, spoon@wwf.org.hk
- (l) Michael Kilburn, mikekilburn.hk@gmail.com
- (m) Paul Zimmerman, paul@designinghongkong.com
- (n) Ian Brownlee, ian@masterplan.com.hk
- (o) Kira Brownlee, kira@masterplan.com.hk
- (p) Andy Cornish, andy_cornish@yahoo.com
- (q) Prof Amanda Whitfort, whitfort@hku.hk
- (r) John Wright, johnwright@netvigator.com
- (s) Wilson Lau, wlau@civic-exchange.org
- (t) AFCD representatives, Secretariat and relevant AFCD and En B officers with contact persons being Simon Chan, kf_chan@afcd.gov.hk and
- (u) Flora Mok, flora_sy_mok@afcd.gov.hk

4. **LFG is integrated with other FGs and WGs work and this Report may be amended upon seeing other Reports and more feedback.** Expected date of Final Submission of Recommendations to AMSWG is 24th September 2014 with progress linked to other WGs and FGs needs and proposals. Some of the work and generating of new information was done in parallel with others to

save time but finalization of the LFG work will depend on information, documents, briefings and Reports from others being provided on a timely basis by the Secretariat. This Report may need to be amended after seeing all Reports and feedback from WGs and SC and Secretariat. **Resources** provided included a meeting room and a partial list of relevant laws and guidance documents. The lack of resources coupled with the amount of the work needed to be done under the Inception Report of 24th February 2014, plus the requested shortened time frame, has prevented some of the intended work, **but this Report lists the needed set of High Priority inter-connected Actions for continuing BSAP work so Hong Kong can achieve compliance and the Aichi Targets in the long term. Being a regulatory and institutional framework, it necessarily is constructed of inter dependent Actions and priorities so removal of components can reduce the efficacy of the whole.**

5. **Background to HKBSAP Regulatory framework improvement.** The Consensus Paper, KFBG October 2003, outlines the history and support for CBD and improving the regulatory framework with a comprehensive conservation policy for Hong Kong by numerous groups from 1992 to 2003, and which eventually led to the Central Peoples Government extending the CBD to Hong Kong on 9th May 2011. Notable early Government support for CBD principles was contained in policy declarations in Legislative Council on 2nd December 1992 and **Legislative Council support by passing a motion** “That this Council urges the Administration to review the priorities of its environmental protection programs, to adopt the two Conventions endorsed by the Earth Summit 1992 and to draw up a comprehensive conservation policy with a target of achieving sustainable development.” In response, in **A Green Challenge for the Community, 1993 published by Planning Environment and Lands Branch of Government Secretariat**, Chapter 9 declared that the Government would adopt the standards set out at the Earth Summit of 1992 and meet fully the obligations of the international agreements on the environment applied to Hong Kong. Chapter 4 set out **Principles and Ten Foundation Stones** for protecting the environment, and Chapter 5 summarized existing policy. Despite substantial NGO submissions and publications over the years, the New Nature Conservation Policy of 2004 fell short of expectations and actions for various reasons. Experience gained from this over the years has been applied to the current BSAP process. The main successes were some Management Agreements but continuing threats and losses continued and include the continuing difficulties in protecting biodiversity and ensuring sustainable use of natural resources in ecologically valuable countryside with areas of private land, Small House pressures or Government infrastructure demands. There have been well informed submissions since 1992 setting out the needs and priorities. An example was “Our Place - Our Time Hong Kong’s Unique Asset: Our Rural Land” in which experienced professionals resolved in 2006 that “The administrative and legal framework for planning, preservation, development and management must be amended to enhance the value of our natural assets: our rural land. Processes that encourage public participation and new systems for identification, classification, ownership and appreciation of Hong Kong’s natural assets are urgently needed.” **Recent relevant actions and documents referenced include:**

- (a) Country Park Enclave Policy, 2010-2011 arising from the numerous reported cases of destruction for development culminating in the Tai Long Sai Wan case,
- (b) Nature Conservation, A new policy framework for Hong Kong, Kilburn and Kendrick January 2011, (The Framework) a result of considerable stakeholder consultation, which led to AFCD welcoming this as a reference for the future BSAP,
- (c) The Joint Statement to the HKSAR Government on the establishment of a Nature Conservation Framework for HK based on the CBD, 26th May 2011, with 24 environmental NGO's requesting the implementation of a comprehensive and robust BSAP based on the above,
- (d) Hong Kong Headline Indicators for Biodiversity and Conservation began to be measured with the October 2011 Report, Kilburn and Cheng,
- (e) Protecting Sites for Ecological Value: A Guide for Decision Makers, August 2012, Kilburn and Lau, provided, in conjunction with the above publications, a background to the current threats and drivers of loss, and methods to improve biodiversity via the regulatory framework,
- (f) Developing a BSAP for Hong Kong by Hopkinson, December 2012, a 55 page booklet, in its Executive Summary page 4, and Introduction page 9, summarized succinctly the current status, threats and needs for action, and then set out 7 Steps for action planning based on CBD best practise as applied to the HK local needs and priorities,
- (g) Prioritising Tasks for the BSAP was co-ordinated by Civic Exchange leading to the 15th March 2013 Priority Lists for scope, priorities and expert groups, covering 5 function based working groups, after extensive participation by numerous NGOs and individuals. Due to resource limitations Government had only 3 Working Groups, so the 3 Amalgamated Priorities Lists of August 2013 were arranged to cover the Awareness Mainstreaming Sustainability, Terrestrial and Marine Biodiversity Working Groups.
- (h) The Terms of Reference and Guidance on CBD etc document by Barretto, June 2013, references the Chief Executive's Manifesto to the CBD Objectives and The Environment Bureau Paper for Legislative Council Panel on Environmental Affairs for the 2013 Policy Address, dated 28th January 2013 which states at paragraph 25 **"In accordance with the requirements of the CBD, we will formulate a BSAP based on principles of the Convention and taking into account local needs and priorities. The action plan will facilitate the implementation of the Convention, enhance nature conservation and help achieve sustainable development of our city."** The BSAP will be implemented in 2015. Paragraphs 44 and 45 highlight Country Park Enclaves and assessing them for incorporation into country parks and improving ecosystems in Marine Parks. This added details to the Chief Executive's Address of 16th January 2013 para 146 which had stated **"The Government shares public concern about ecological**

conservation....We will emphasize conservation of land and marine ecologies in major government policies.”

- (i) **The Strategic Plan for Biodiversity 2011-2020** with its Vision, Mission 5 Strategic Goals and the 20 Aichi Targets arising from the Conference of the Parties in Nagoya 2010 are declared policy to be met by the HKBSAP, and the Quick Guides to the Aichi Targets of February 2013 have been of considerable help in assessing priorities. The Key Points are summarized on a single sheet to aid action.
- (j) After Steering Committee discussion the Government on 25th June 2013 decided the Division of Work for the 3 Working Groups and divided up the Potential Priorities identified by reference to the Aichi Targets and the Priority Lists noted above and the Government’s Potential Priorities.
- (k) **The Vision, Mission and Principles**, as of 25th July 2014 draft, is intended to reflect agreement that it should reflect the Strategic Plan as above, should not omit Aichi Targets and have appropriate local needs and priorities.
- (l) This work has been assisted by recent independent studies into threats and gaps such as A Review of Hong Kong’s Wild Animal and Plant Protection Laws, Whitfort et al, September 2013 and The Potential for Strategic Environmental Assessment to Assist in Mainstreaming Biodiversity into Decision Making in Hong Kong, Cornish December 2013 and the work by individuals, other Focus Groups and the Secretariat. *This is a work in progress as more Reports are obtained and analysed and extracts inserted as appropriate. It is hoped that feedback from FGs WGs, SC and Secretariat may contribute to further improvements to be incorporated.*
- (m) **Continuing threats, impacts, and errors to the detriment of biodiversity are highlighted by actual case studies** which continue to inform and illustrate the needs for improved conservation under the BSAP and new CBD system for Hong Kong. The Authors are well aware of numerous examples of deficiencies exposed and questionable decisions being made. Often it appears that unsatisfactory decisions are made from lack of assessment, evidence, or understanding of or access to CBD and conservation principles. Few cases lead to Judicial Reviews which are for cases which are irrational or unlawful, but many more cases based on errors and inadequate considerations go forward without adequate remedy. The environment usually suffers as a result. Things can be done better from now on if CBD and BSAP is taken forward as per the Actions herein.
- (n) At present, conservation is taken forward in a limited way by the Country and Marine Parks Authority and Board and the Town Planning process while conservation values are eroded by major developments with inadequate mitigation or compensation via the EIA process. For consideration of EIAs the Advisory Council on the Environment role to act as a watchdog is constrained by limited resources and other problems. **These are the few processes in the regulatory framework in which limited public participation in conservation occurs but they provide useful references to the shortcomings of the current regulatory framework.** There are

many projects and areas outside these processes where impacts on biodiversity and sustainable use of natural resources are not assessed, mitigated nor compensated in a transparent and participatory way based on CBD principles. It is left to under-resourced departments which lack conservation expertise and guidance or transparency.

- (o) The Ombudsman, Audit Commission, and Legislative Council, are other avenues for redress but which have limited conservation expertise. Some reports have been helpful. **The Rio Declaration Principle 10 states that public participation, freedom of information and effective access to judicial and administrative proceedings including redress and remedy shall be provided.** These can be improved by the Actions in this Report. Unsatisfactory decisions and damage to the environment should be reduced in future if there is improved decision making and regulation under the CBD process. Representations to deal with the errors and omissions require much time and expertise and are often done pro bono by individuals and NGOs. This Report contains priorities to improve the regulatory framework so that decision making for conservation is improved, and Hong Kong conservation policy in the BSAP, the CBD implementation and Aichi Targets are achieved.
- (p) **A BSAP Authority** consisting of ENB, AFCD, a professional expert leader and public participation, with a mission dedicated to implement the CBD, HKBSAP and Aichi Targets will be needed to better take forward the work. This will continue the process and works which cannot be completed by 2020 and work on other priorities omitted from the current BSAP. **Being a framework, it consists of a number of connected parts, all of which are necessary.**

6. **Unique features of Hong Kong enabling high standards of nature conservation and improved regulatory framework and which provide numerous benefits which justify the work, include as follows:**

- (a) **Wild nature is close to dense urban areas,** it is a Region or territory and has dense city areas, thus there are great threats and pressures to encroach into the natural areas, but these places provide significant close to hand ecosystem services and human wellbeing. Natural assets provide fresh water, air, and food, and recreation, knowledge, beauty, happiness and health, among other essentials for quality of life.
- (b) **Regional hotspot** for biodiversity, very diverse but very small, and very important for the South China Region, there are national and international responsibilities and also opportunities for improving quality of life.
- (c) **Countryside covers much of Hong Kong but only half is protected as Country Parks.** These are very small and fragmented and need to have their green corridors and enclaves specially protected in order to comply with international targets to reduce the rates of extinction and maximize the potentials for delivering the benefits listed above.
- (d) **Sea, shores and marine life has been somewhat overlooked** in the regulatory framework hence improved efforts are needed to restore our marine life, especially since so much of our area is marine and these areas provide much to human wellbeing.

- (e) A reasonable outcome is for the connected land and sea Protected Areas will one day become the equivalent of a **National Nature Reserve for China.**
- (f) Hong Kong has an educated population who legitimately expect that their rights to access and enjoy the countryside and the sea and all its ecosystem benefits will be protected by an improved regulatory system which is fair and protects and enhances our existing quality of life. **The existing framework is based on providing for the public interest or community benefit, and this is a foundation principle.**
- (g) The good work of the past and the existing regulatory framework provides a basis for improvement and updating **to meet the needs and obligations of the CBD and to meet the Aichi Targets under a BSAP which is Government Policy and Resourced to achieve the obligations we have agreed.** Achieving progress in a more comprehensive regulatory framework will contribute to awareness and integration or mainstreaming biodiversity and sustainable use of natural resources into government and all sectors. These are key objectives of the CBD and hence high priority.
- (h) **Massive global ecological footprint** is caused by shifting our impacts on the natural world to other regions. Hong Kong has to fulfil obligations as a global citizen by protecting what we can within our own boundaries and put in place laws and a regulatory framework to minimize the damage we do beyond our shores.
- (i) Hong Kong being a small place with high biodiversity and high population pressure **needs good governance via an improved and “effective” regulatory framework** for conservation. Hong Kong will be in a good position to achieve its obligations if the Priorities and Actions herein are implemented.
- (j) **Hong Kong’s biodiversity has been studied enough to know its values and the threats and some of the solutions so as to enable this First BSAP.** For example many of the above features are identified in A Green Challenge 1993, Chapter 4 referred to above and many of these features reflect the CBD articles, the Rio Declaration and the Aichi Targets. These 15 Actions are mostly not new suggestions, but which have been known for years, but in past years with the added request for Hong Kong to join the CBD family. Now the Central Peoples Government has extended these obligations to Hong Kong, this is opportunity to assure for Hong Kong a legacy for future generations.

7. This Report is requested to be succinct. Limited resources have imposed constraints on what can be achieved at this stage. **Hence continuing work on improving the regulatory and institutional framework for conservation is a High Priority requiring substantial increase in resources to implement the obligations undertaken.**

8. **Multiple Strategic Goals and their Aichi Targets will be achieved by the 15 Actions and their outcomes listed below.** Local Needs and Priorities will be achieved with a BSAP framework. Targets such as Habitat Loss halved or reduced, T5, Protected Areas increased and improved, T11, including Country

and Marine Parks, Enclaves, and Deep Bay Ramsar Site are to be achieved.
The Strategic Goals to be Achieved are:

- (a) A-Address the underlying causes of biodiversity loss by mainstreaming biodiversity across government and society.
- (b) B- Reduce the direct pressure on biodiversity and promote sustainable use.
- (c) C- Improve the status of biodiversity by safeguarding ecosystems, species and genetic diversity.
- (d) D- Enhance the benefits to all from biodiversity and ecosystem services.
- (e) E- Enhance implementation through participatory planning, knowledge management and capacity building.

15 Actions and Outcomes

9. **Action 1. Countryside and Marine habitats conservation and sustainable use and Country Park Enclave Policy** are core areas of public expectation, are High Priority, short and long term, and deliver achievements in most Targets. The CBD Articles include 1,6,7,8, 10 and 11 and Goals/Targets include A-1,2,3, B-5,6,7,8, C-11,12, 13, D-14,15, E-17,18,19, and 20. This is better implemented as follows:-
- (a) The Country Park Enclave Policy of 2010-11 is better implemented and improved so as to meet the CBD obligations and Aichi Targets following CBD principles and best international practice under the BSAP process.
 - (b) The Country Parks and Marine Parks are managed more effectively, and relevant conservation zonings and policy in adjacent areas or Enclaves improved (Art 8(c) and (e)) following Ratcliffe criteria as updated for Hong Kong and with CBD compliance. See Barretto & Kendrick 2006, Proceedings of First SE Asian Lepidoptera Symposium et seq. Outcome Aichi Target 5, habitat loss halved or reduced, T11 Protected Areas increased and improved.
 - (c) Integrity of Country Parks protected and Protected Areas increased and improved by CP extensions, improved zoning, and reduction of pollution T8, and reduction of pressures caused by perverse incentives T3, which causes expansion of V zones, T10.
 - (d) Marine potential PAs and hotspots identified and mapped with internationally accepted criteria such as Ecologically or Biologically Significant Area (EBSA) which are 7 criteria adopted at CBD COP 9 in 2008 (Marine Habitat Assessment FG).
 - (e) Potential, new and planned CP's and MPs and extensions identified and implemented, T11.
 - (f) Connectivity secured and enhanced by Protected Area wildlife corridors or controlled countryside and agricultural areas, and between PAs and to the shores and to habitats in southern China, (landscape/ seascapes) T11 An outcome is that a system of connected PAs can be recognized as a National Nature Reserve within China.

- (g) Management plans, habitat protection plans and maps, for conservation of PA's, including CA, CPA, SSSI and all conservation zonings, created and published, with priority for areas under threat, (GB is not a PA at this stage. Whereas PlanD regard GB as a conservation zoning, many GBs conservation uses are currently under threat, with planning uncertainty caused by development pressures. It is thus an un-protected conservation zoning.) T11.
- (h) Key sites and hotspots outside or adjacent to the existing PA system identified and protected, using Ratcliffe criteria as adapted to Hong Kong and with CBD compliance, with priority to upgrade to PA for areas under threat and the 12 Priority Sites in the NNCP of 2004.
- (i) Reduction of pressures on countryside and coastlines by improved zoning and planning controls and improved land administration and resources for enforcement, T10 and incentives reformed, T3.
- (j) Pollution affecting PAs reduced by improved governance and implementation of existing legislation T8.
- (k) Participation and transparency improved in line with CBD principles for processes, information and decision making within the Country and Marine Parks Board and Authority and the AFCD.
- (l) Improve and publish Technical and Guidance Notes and other criteria for use in advising and deciding on conservation issues, evaluation of sites and habitats, habitat types, species, and evaluation of sites for conservation purposes, such as updated Ratcliffe criteria, in compliance with CBD principles and the Aichi Targets.
- (m) Target is an increase of 2% in PA per annum over the 5 years of the 1st BSAP with a total of 10% increase and no loss of CP or other PA land or sea and an increase in Marine PA of at least 10% by 2020 to meet Aichi Targets.

10. **Action 2. Priority Sites better protected and fair methods of increasing Protected Areas by means of Resumption, Land Exchange and Transfer of Development Rights and improved management for public benefit by a statutory Conservation Trust.** These sites have long been identified by the public and the Government as some of the jewels of Hong Kong biodiversity together with landscapes of outstanding natural beauty. Hence the highest degree of protection is expected within the Protected Areas Network and High Priority is established. The methods of protection for valuable areas with some private land have been assessed and found to be feasible. High Priority, short and longer term. CBD Articles include 1,6,7,8,10, 11. Goals/Targets include A-1,2,3,4, B-5,7,8, C-11,12,13, D-14,15, E-17,18,19,20.

- (a) The 12 Priority Sites identified under NNCP 2004 to be better protected under CP Enclave Policy where appropriate.
- (b) Use Resumption, Land Exchange and Transfer of Development Rights as methods to achieve expansion of PAs and provide fair compensation to private land holders in appropriate Priority Site cases. Premium offset can be used, whereby the developer offsets the value of his conservation land against the premium he may pay to obtain a land exchange or lease modification elsewhere. The developer surrenders land as part of the land exchange. Target to be 2 sites for the 1st BSAP.

- (c) Declare Conservation to be a public purpose under the Lands Resumption Ordinance. The law and past conduct shows that this is already the situation in practice. Official recognition is needed to confirm the situation and so enable equitable and better funded conservation and incentives reformed for conservation, T3.
- (d) Manage sites which are not designated as CP under a statutory Conservation Trust which progressively holds land and associated waters and wetlands as a community asset for the long term public benefit in conservation subject to ecological and biodiversity conservation principal objectives. Holding land for Sustainable Farming, Traditional Knowledge and Education and Awareness are linked.
- (e) Target date of establishment to be 2020.

11. **Action 3. Restoring Land Administration and improving Small House regulation to meet public expectations, policy and CBD obligations.** Small House development is a substantial threat to the countryside and downstream aquatic habitats. Current practices perversely incentivize and reward speculative pressures causing multiple environmental impacts due to numerous reasons which have been documented, see for example Hopkinson and Lao 2003, referencing inter alia Audit Commission Reports 1986, 2002 and update by Lao 2013 which shows how the situation deteriorated as predicted and lists at 6.7 some 16 actions for improvement by an interdepartmental team from PlanD, Lands D and EPD. **It is not a single problem but has several contributing issues** such as limited enforcement, discretions exercised without adequate regard to environmental priorities, decisions made without adequate assessment or evidence, much of which is caused by lack of resources for maintaining previous controls. **The threats are a major driver of loss and hence a High Priority**, short and longer term. CBD Art include 6,7,8,10, 11 and 14(1)(b), Goals/Targets A-2,3,4, B-5,7,8, C-11,12,13, D-14, E-17,18,19,20. T3 provides that incentives harmful to biodiversity should be phased out to minimize or avoid negative impact, and provide positive incentives for conservation “taking into account socio-economic conditions.” The measures to be improved, instituted or tightened up include:

- (a) CPO to be administered and CPs controlled and managed by Authority or AFCD according to the Ordinance (which does not provide for DLO making new Small House grants in existing Country Parks.) and according to the CBD principles and Aichi Targets.
- (b) Water Pollution Control Ordinance Technical Memorandum to be enforced by EPD, and additionally the PN 5/93 to be enforced and improved, in particular by requiring percolation tests and requiring surveys and assessments to measure and control biodiversity impacts from cumulative and individual applications.
- (c) EPD Guidance on Septic tanks and Soakaway systems to be improved and enforced for Small Houses.
- (d) DSD, EPD and LandsD to extend the communal sewer network to rural villages where possible without damage to the natural environment. In areas where communal sewers are impractical, the development zone of Small Houses should be limited/ reduced. The

Government should plan for and provide small sewage treatment plants in areas for which it plans or zones for increased houses.

- (e) EPD to improve enforcement of Water Pollution Control Ordinance for illegal discharge of wastewater.
- (f) EPD, Lands D, Plan D/TPB and others to improve decision making by using CBD principles such as the Ecosystem Approach, the Avoidance Principle, Cumulative impact assessments and Precautionary Principles generally and in particular for amending various Interim Criteria for Small Houses.
- (g) Lands D to enforce Health Requirements of Village Type Houses in Conditions of Grant to ensure septic tanks are not approved where cumulative impacts arise from more than one house unless there is road access for desludging purposes, and to improve such conditions to meet CBD principles and Aichi Targets.
- (h) Lands D to enforce the laws and practices for Small House Policy abuses.
- (i) DLO to make estimates and consider applications and grants based on proved genuine need by Indigenous Villagers for their own residence, not just demands.
- (j) Lands D and DLO with DoJ advice to prevent legal devices and practices which circumvent the rules against assignment. DLO to limit the SHP in Enclaves with enforced conditions permitting assignment to indigenous villagers of the village concerned but not to outsiders. DLO and others to take action on the Audit Commission Report on Small Houses and update report by Lao 2013.
- (k) DLO to prevent unauthorized site formation and drainage works done before applications, or destroy first build later, and deter the works by requiring restoration, not just warnings and acquiescence to the changes being caused.
- (l) DLO to prevent unauthorized access, access and road making, trespass, and occupation of Government Land, use of vehicles or construction machinery over Government Land and to deter such works by restoration and enforcement.
- (m) DLO to prevent unauthorized cutting of vegetation on private and Government Land, especially in GB, CA, SSSI, and Enclaves and to deter such works by requiring restoration and enforcement.
- (n) Lands D to improve lease and grant conditions, instructions and guidelines which deal with the abuses, ensure effective land administration and achieve management for biodiversity and achieve the outcomes and Targets.
- (o) Lands D to set up reporting and recording system for unauthorized conduct or malpractices so that the same are not overlooked. To deter the destroy first build later methods, the malpractice will be considered as part of the project or application, and restoration and mitigation must be completed by certified professionals to the satisfaction of the AFCD and ENB before applications can be approved.
- (p) Lands D and other Departments to be adequately resourced to carry out its duties to protect land and the environment.
- (q) Land and Hotspots Taskforce, under Lands D or other appropriate authority, to protect ecologically valuable areas without protection, co-

ordinated action with other departments so pro-active monitoring and improved enforcement will be achieved. The aim of the taskforce is to monitor identified ecological hotspots, provide recommendations on threats, measures for protection and take appropriate action.

- (r) Target dates, 2020 and continuing.

12. **Action 4. Administrative improvements to relevant Departments and Bureaux, in particular Town Planning, to implement integration or Mainstreaming of CBD.** Departments have the skills and resources which need to be guided and better deployed to help achieve the common policy objectives contained in the Aichi Targets. The Town Planning Ordinance has public benefits, health, the interests of the community and conservation as its objectives and this can be better achieved by administrative improvements. Gaps have been noted and experience over the years and currently in the planning process reveal the urgent need for better methods, use of effective precedents for conservation in future and better decision making, hence High Priority. Chapter 10, Conservation, of HK Planning Standards and Guidelines with its 4 Principles for conservation in land use planning must be applied and the PSG need to be updated by reference to CBD and the Aichi Targets and applied to planning for conservation. High Priority, short and longer term. CBD Articles include 1,6,7,8,10,11,12,13,14. Goals/Targets A-1,2,3,4, B-5,6,7, C-11,12,13, D-14,15, E-17,19,20.

- (a) Compliance and use of CBD principles in updated standards and guidelines, practice notes by AFCD, EPD, DLO and Lands D, Plan D, LCSD, CEDD, WSD, DSD, and other relevant departments.
- (b) Departments to prepare or improve, with the assistance of the ENB and a participatory process, appropriate Standards and Guidelines, Technical Memoranda, Technical, Practise or Guidance Notes, (akin to those used by the EIA system) and to improve existing documents so Departments and all sectors are informed, instructed and guided on the principles, methods and implementation of the CBD via their own systems, decisions and actions and having regard to the improved conservation practices generally.
- (c) Departments to submit current and improved documents as above to ENB and AFCD (BSAP Authority) so that a data base of conservation materials relevant to CBD action and achieving the Targets is compiled for guidance, reference and future improvement, co-ordinated governance and mainstreaming, public information, awareness raising and future improved legislation.
- (d) Planning Department to improve Planning Standards and Guidelines, Master Schedule of Notes, Zoning descriptions and definitions, Notes to the Plans, Explanatory Statements, Planning Intentions, processes and decision making to expressly meet and reflect CBD principles, Aichi Targets, Country Park Enclave Policy principles and criteria so that CBD is implemented and Aichi Targets are achieved via the planning process and through decisions of the Town Planning Board.
- (e) Plan D to improve GB, CA, SSSI zonings to increase their effectiveness in protecting biodiversity with additional controls to provide management of such areas.

- (f) Plan D to zone and protect with future potential Country Park designation within its purview so that SSSI, CA, CPA and other Protected Area zonings and GB are made appropriately to protect as a stop gap pending CP designation.
- (g) All unprotected or unplanned areas to be protected with DPA and OZP by 2020, with priority for areas of biodiversity value and which are at risk.
- (h) Plan D with AFCD to better protect urban biodiversity and assess, zone and protect more areas of GB, CA and SSSI or wildlife corridor as appropriate in or near built up areas.
- (i) Plan D to issue guidelines/practice notes/technical circular/ other administration measures on special protection of ecologically sensitive rural areas covered by OZP without a prior DPA, and to this end participate in the Lands and Hotspots Taskforce.
- (j) Town Planning Board to improve its recognition and implementation of CBD, Aichi Targets and the HKBSAP through its processes, decisions, notes and conditions to ensure conservation, sustainable use of natural resources and enhanced public participation. In particular to amend its Interim Criteria for small houses, 2007 which has facilitated construction in or near conservation zones without planning permission provided there are no trees, and thus encouraged destroy first and build later.
- (k) Plan D or TPB to require and obtain expert surveys, assessments and reports of biodiversity habitats, species, and the threats, pollution, impacts, cumulative impacts and other adverse consequences of the applications or zoning being considered. This is especially needed for GB. Examples of assessments are mandatory percolation testing for sewage related pollution.
- (l) Lease, licence, permits and contractual and grant conditions to be continuously improved to implement CBD principles and Aichi Targets.
- (m) Plan D to require compliance with Water Pollution Control Ordinance and TM and implementing standards or practice notes such as PN 5/93 which are improved to meet CBD principles (e.g. avoidance, precautionary, ecosystem, and cumulative impacts) by professional assessments with improved standards for biodiversity protection.
- (n) Target dates for improvements by 2016 and continuing.

13. **Action 5. Improvements to the SEA and EIA processes and other mechanisms for screening and scoping the conservation implications of development proposals.** It is 16 years since the EIA Ordinance was passed. Improved screening of projects types and sizes, improved scoping of the assessments to benefit conservation to implement the CBD are required. Gaps and shortcomings have been revealed from actual cases and experience. This action is high priority and both short and longer term. CBD Articles mainly Art 14, also 1,6,7,8,10, Rio Declaration 10,11,17, (which highlight information and participation) Goals/Targets A-1,2,3,4, B-5,6,7,8, C-11,12,13, D-14,15, E-17,19,20 are relevant. Complex issues and impacts can be better studied, quantified and decided, and the current degree of conflict of interest, unfairness, lack of participation, and lack of information and transparency in

key parts of the current process can be reduced by administrative and statutory improvements such as follows:

- (a) SEA. Review the existing Strategic Environmental Assessments (SEA) process, the Sustainability Assessment process, and methods to improve the use of SEA to help implementation of the BSAP. This links with other Focus Groups.
- (b) A priority is an improved SEA Directive for government bureaux and department to follow. It should set out:
 - (i) a list of the types of projects or plans or policies as major proposals which require SEA: for triggering the relevant SEA, identify who is responsible for the SEA, and to seek detailed guidance on the conduct of the SEA following the relevant principles and best practices set out in (ii).
 - (ii) the internationally accepted principles and best practices to integrate or mainstream the CBD process, Aichi Targets and BSAP into important early decision making and long term planning for better sustainable use of natural resources;
 - (iii) the objectives such as impact assessments done as early as possible with public participation as early as possible, the need to assess a broad range of alternatives to provide early warning and identify cumulative impacts, and to assess a broader perspective especially impacts on ecosystem services, ecosystems, communities of species, use of natural resources, social and economic cost benefits and major changes;
- (c) EIA. Review EIA Ordinance, EIAO TM and Annexes, Guidance Notes to improve and to better implement the CBD, taking into consideration the BSAP actions to be implemented, and in particular past effectiveness of the EIAO for protecting conservation areas under threat of major development and redevelopment proposals. Guidance notes can be used as interim measure. Review of the various planning and land administration statutory processes for screening compatibility of large developments especially those that encroach into important habitats such as: terrestrial, marine, coastal, estuarine, intertidal, freshwater and ecologically important areas needing protection areas including Deep Bay Ramsar Site and its fringe areas, SSSI, CA, and rare species breeding grounds. Review Schedule 2 of the EIA Ordinance to remove the blanket exemption currently allowed for NTEH/Small Houses having regard to the multiple environmental impacts being caused.
- (d) Review of the existing non-statutory process for initial screening of developments and redevelopments that fall short of the threshold limit of “Designated Projects” under the EIA Ordinance, with the view of strengthening conservation protection; as their “project footprints” may also encroach and destroy important habitats.
- (e) Adopt the Red List and HK List of species of conservation concern and implement as soon as possible in relevant assessment by Guidance Note pending amendments to the EIA Ordinance.
- (f) Along the same vein, pertinent criteria recommended by other Focus Groups should be integrated into the EIA Ordinance and its related documents to take effect in relevant assessment: e.g. Marine

conservation criteria, EBSA criteria recommended by Marine Habitats Focus Group.

- (g) Improve the EIA process to achieve CBD objectives and Aichi Targets by specifying in Project Profiles and Study Briefs that Project Proponents have to:
 - (i) ensure all areas relevant to CBD, its principles and the Aichi Targets are critically and rigorously assessed for impact, especially impacts on biodiversity conservation, sustainable use of natural resources and human well being;
 - (ii) include broader assessment of studies on Alternative Means, Sites and Methods (for project delivery) that lead to improved avoidance, mitigation and compensation from biodiversity conservation point of view;
 - (iii) include adequate assessment of impacts on Fisheries, Ecosystem services and the Sustainable use of natural resources, and the value and impacts on Agriculture;
 - (iv) upgrade assessment process in step with updated Ratcliffe criteria, the Ecosystem Approach, other CBD principles and methods to improve conservation outcomes, to reduce impacts and to restore biodiversity.
- (h) Institutional conflict of interest must be reduced by separating the 2 jobs of Director of Environmental Protection, a professional position, from that of the Policy Secretary, which is a political role, and revert to the previous position where more independent professional opinion was a basis for environmental decision making.
- (i) Improve professional accountability and reliability of EIA Reports by requiring each section of the Reports to be certified by the relevant professional author as being a true, fair and balanced account and in conformity with the TM and Study Brief.
- (j) Enforce the requirement that the Executive Summary be a fair summary of the data, opinions, without advocacy to promote the Project rather than the impacts, cover the main issues and describe the contentious or significant issues, and to be certified as a true, fair and balanced summary by the relevant professional
- (k) Improve participation and accountability and reduce risks and perceptions of unfairness by requiring all meetings and deliberations to be open to the public, especially when Government projects are being considered, where changes are taking place, and in complex cases. Using the public hearing process of the Town Planning Board as a reference point improve participation so the public can address ACE on the project (now only the project proponent and officials can address ACE; the public cannot be heard directly inside the meeting room). This is one option to improve the unbalanced situation within the decision making process in approving the EIAs. Initially, only complex cases, cases with significant environmental impacts, or controversial cases are recommended to be included.
- (l) Improve the capacity of ACE to analyse and act as the public watchdog on EIA reports by engaging publicly funded independent experts to assist ACE in deliberations instead of reliance on officials and experts hired by the project proponent(s), especially for complex cases, cases

with highly significant environmental impacts, highly controversial cases, or where Government interests are involved.

- (m) Director and officials should not take part in deliberations, especially in Government interested projects
- (n) Director should identify and publish the issues relevant for approval or no approval so as to assist the public and ACE to comment, in particular in cases where the facts or issues may change.
- (o) Director should publish the comments of the public and officials and EPD responses.
- (p) If Project Proponents make presentations to ACE, objectors and commentators should be permitted to respond before ACE formulates its advice to the Director, especially in complex cases or where the Proponents case changes.
- (q) Time limits should be extended beyond the 60 days which is inadequate for many cases, and especially since public participation is more recognized and more important as part of the process.
- (r) Develop and enhance a system of professional certification for EIA professionals as a qualification for employment in EIA related works.
- (s) On a longer term basis, to enhance independent and professional assessment in the public interest and reduce conflicts of interest and improve overall quality, a review should be carried out to improve transparency and integrity of the EIA system by reference to international best practice, an independent review mechanism, a centralized funding system to carry out independent EIAs and an improved public hearing system.
- (t) Results of Environmental Monitoring and Audit (EM&A) and Independent Environmental Check (IEC) (e.g., EM&A Reports, IEC Reports) should be made available to the public in a centralized system so that the public can comment on the data and the reports through an official process to which the proponents and relevant authorities should investigate and respond.
- (u) Target dates by 2020 and continuing.

14. **Action 6. Red Listing.** A Red List following IUCN criteria as well as a Hong Kong List of Species of Conservation Concern based on international conservation principles and standards and implemented into statutory processes will be compiled so that decision making is appropriately and accurately informed by the conservation need, the threats caused, and the methods to achieve conservation in tandem with decision making generally, project and impact assessments, Country Park improvements, zoning, and consideration of land uses. This Priority has links with the Status and Trends Red Listing FG and Terrestrial and Marine Impacts FGs.

- (a) Red List based on IUCN criteria (Red List) and the HK List of Species of Conservation Concern (SCC List) will be implemented by amendment to existing legislation to protect by laws all species so listed from time to time.
- (b) The list and trends will be monitored, species will continue to be assessed, and the list will be updated by an independent body

consisting of Government and non Government members meeting and reporting regularly.

- (c) High Priority, Short and longer term. CBD Articles include 1,7,8,9,10,12,13,14, Goals/Targets A-1,2,4, B-5,6, C-11,12,13, D-14,15, E-17,18,19, 20. Target date 2016.

15. **Action 7. Wildlife law amendments.** Professor Whitfort and others have analysed the gaps in the regulatory framework, some of the laws are old and need updating to deal with current threats and to meet current CBD principles. **There are major gaps in the protection of fish species.** The 15 recommendations relate to CBD Articles 7,8,9, 10,12,13, 14 and Goals/Targets A-3, B-5,6,7,8,9, C-12,13. These High to Medium Priorities are short and longer term and summarized as follows

- (a) To give legal effect to the new Red List and List of HK Species of Conservation Concern, by way of the Wild Animals Protection Ordinance Cap 170, Forests and Countryside Ordinance Cap 96 and EIA Ordinance Cap 499, Technical Memorandum.
- (b) To protect or improve protection of fishes and invertebrates by way of the Wild Animals Protection Ordinance, Fisheries Protection Ordinance Cap 171, Marine Parks Ordinance Cap 476 and EIA Ordinance Technical Memorandum.
- (c) Improved measures to manage invasive alien species, e.g. restrictions on release and import, WAPO
- (d) Removing loopholes in definition of hunting, WAPO
- (e) Improved controls for possession of protected wild animals, WAPO
- (f) Provide protection for Rare Plant Species on Private Land, FCO
- (g) Restrict the possession of tools that may be used to damage protected plants, FCO
- (h) Providing defence and regulations for accidental collisions with protected marine species
- (i) Improving the assessment of impacts to species under the EIAO.
- (j) Additionally the Report advises on enforcement methods, see below

16. Connecting Priorities in the improved Regulatory Framework are as follows and summarized by other FGs include:

- (a) Wildlife Crime Unit
- (b) Land and Hotspot Taskforce
- (c) Wildlife Trade regulation
- (d) Ecological Footprint monitoring and enhanced controls and sustainable use
- (e) Regulations to control the release of species
- (f) Ultimately a CBD Ordinance which gives local legal effect to the CBD and the Government Policy on conservation should be enacted.
- (g) Target dates 2020

17. **Action 8. Enforcement improved and Wildlife Crime Unit or Taskforce.** Environmental and wildlife crimes are usually organized crimes and cross departmental responsibilities hence requiring a system and units whereby departments work more closely together to share information, resources,

duties and expertise. Adapting practice elsewhere shows this can be achieved by a specialist Police led unit which leads and assists wildlife law enforcement, with Police Wildlife Crime Co-ordinators who co-ordinate actions, and a Partnership with other statutory bodies, departments, NGOs and the public to tackle wildlife crime. CBD Articles 3,4,6, 7,8, 10, 12, 13. Goals/Targets A-1,2, B-5,6,8,C-11,12,13, D-14, E-17,19,20.

- (a) The Resources required for this High Priority include:
 - (i) Staff, training, and direction,
 - (ii) Improved systems for co-operation between Departments, and creation of Wildlife Crime Unit (Police led e.g. Rural Police Units) for organised wildlife crime and Land and Hotspot Taskforce (Land D led) to deal with land and environmental crimes.
 - (iii) Information and awareness raising via all departments.
 - (iv) Mainstreaming with highest level support.
- (b) Implementation and enforcement will be improved as follows:
 - (i) Monitoring, inspections, patrols, wardens. Increased Nature Wardens and volunteer appointed Nature Wardens under s.16 Wild Animals Protection Ordinance, AFCD.
 - (ii) Wildlife Crimes Unit or Taskforces and other inter departmental teams, see Whitfort, Cornish et al, including DoJ, Police, Customs, Immigration, AFCD, DLO, ICAC etc
 - (iii) Forensic analysis and investigation for enforcement and prevention.
 - (iv) Land and Hotspot Taskforce to deal with increase in environmental and land crimes caused by increased pressure from enlarged V zones in Enclaves, to include AFCD, EPD, WSD, BD, Plan D, CEDD, ICAC.
 - (v) Monitoring and Reporting systems which are transparent with public hotline and feedback, a system for public to assist in the watch dog role,
 - (vi) Evidence gathering, detection and recording and reporting of unauthorized activities,
 - (vii) Publicity and awareness raising and improved evidence to assist in prosecution and sentencing for DoJ and Judiciary.
 - (viii) Enforcement and prosecution with specialist teams and DoJ.
 - (ix) Penalties appropriate to the loss and cost of restoration and reinstatement.
 - (x) Warning and penalties linked to cost of and orders for restoration and reinstatement,
 - (xi) Data base of current and historic prices of wild life products that are part of wildlife trade, including TCM products, for assisting prosecution and conservation.
 - (xii) Lease and other conditions enforcement, re-entry for breaches impacting conservation values and CP.
 - (xiii) Improved administrative measures, standards, guidance notes,
 - (xiv) Target dates 2016

18. Resources and other requirements.

- (a) Budget, Staff, Training, Management,

- (b) Links to Habitat FG, Awareness raising, Mainstreaming
 - (c) Policy lead and support, Target 17 and Resources increased, Target 20
19. **Action 9. Ecological Footprint and Wildlife Trade Regulation** is an express obligation under Article 3 of the CBD and would use the Wildlife Crime Unit and other resources to fulfil our international obligations to reduce our Global Ecological Footprint in our wildlife trade, some of which is illegal and some of which is currently legal, but which imports and exports illegally obtained species from overseas and which are being laundered or trafficked through Hong Kong. Wildlife Crime in Hong Kong and our contribution to Wildlife Trade is summarized by Leung and Laurie, May 2014, Marine Impact FG. Hong Kong is an important centre profiting from trading in wildlife and either does not have the laws or our laws have loopholes which need to be closed as part of our international obligations. Specific amendments to deal with this local need and High to Medium Priority, Medium term, are in the Sustainable Use FG Report. CBD Articles 3, 4, 6, 10. Goals/Targets A-1,2,3,4, B-5,6, C-12, E17,19,20.
20. **Action 10. Ecological Footprint, Sustainable use of natural resources and Eco-system services** measurements are studied by the Sustainability FG Report in detail. Hong Kong would need an area 150 times its size to be self sufficient and if the rest of the world used resources at our rate humanity would need the Earth to be 2.6 times its actual size. Hong Kong has the 9th highest Global footprint, and in Asia Hong Kong has a bio-capacity deficit second only to Singapore, and hence has obligations to reduce this. Similar Articles impose obligations and similar Goals/Targets as above. Priority High to Medium, Medium term.
21. Actions in addition to the specific Wildlife Trade noted above are:
- (a) **By 2016, Measure regularly the Ecological Footprint** of Hong Kong and use this to promote awareness and action.
 - (b) **By 2020 use this as indicators and integrate this into sustainable development planning, to achieve a roadmap to reduction of our Ecological Footprint with processes and a timeline.**
 - (c) **By 2020 Assess the sustainable use of seafood, timber, paper, traditional Chinese medicine from the wild and beef**
 - (d) Improve regulation of trade in resources by access to information on illegal trade of specific commodities of concern, such as the above list, and by strengthening CITES law enforcement and the licensing system in Hong Kong.
 - (e) Improve the regulations and enforcement as per the specific examples in the Study such as, for Live Reef Food Fish, remove loopholes such as shortening the period of validity of the license to possess fish so that fish sold can be more easily verified as being covered by the license, under the Protection of Endangered Species of Animals and Plants Ordinance Cap 586; remove gaps so that import declarations are required under the Import and Export Manifests Notice Cap 60C and Import and Export Registration Regulations Cap 60E.

- (f) Study the extent of illegally sourced commodities traded through Hong Kong. For example, Hong Kong has no regulations that cover the purchase of illegally logged timber and paper products thus making it a potential laundering point for illegal timber.
- (g) Investigate reasons why some endangered species/species of high conservation concern are still ‘legally’ appearing in the market (e.g., Golden Coin Turtle, live/dead corals) and close loopholes in the regulatory system, e.g. the existing permit system does not require individual identification for most species, hence it is open to abuse in which dealers do not transfer the permit to individual buyer and retain it to cover new animals/plants.
- (h) Regulate the trade in resources by Lacey Act legislation whereby it is unlawful in Hong Kong to deal in species which have been taken contrary to the laws of another country or international law. In any event, regulations or Guidance Notes to limit and control possession and trade of illegally obtained species should be improved or drafted
- (i) **Promote awareness, education, sustainable production, and use of certified products which incentivize sustainable resources** such as Forest Stewardship Council certified timber, Marine Stewardship Council certified sea food, Fairwild certified TCM products.
- (j) 22 different Eco-system services are identified and are listed for 18 different relevant habitats in Hong Kong. Major unquantified and unvalued benefits are delivered and need to be assessed before decisions can be made which cause loss. **Action needed is to conduct Eco-system services assessment and measure their contribution to human well being so that the value of our bio-capacity and natural capital can be taken into account in decision making.**
- (k) Ecosystem services assessment between 2015 to 2020 to create a baseline and set up indicators to value ecosystem services and their contribution to well being and becomes part of an accounting system and used to guide decision making which takes into account conservation and sustainable use values.

22. **Action 11. Local Sustainable use of natural resources in Hong Kong.** This is linked to several priorities. **Protecting fresh water sources is a priority.** One of the important eco-system services and benefits of the countryside is fresh water from the Water Gathering Grounds which cover Country Parks and unprotected Enclaves or areas. Protection of these natural assets or services needs to be enhanced, for example against pollution from sewage in Enclaves. As other FGs studies show, because Hong Kong has failed to conserve its marine natural resources and failed to use most of its agricultural land for farming, and has a very large urban population, hence Hong Kong has a massive Global Ecological Footprint, has non-sustainable living, and exploits and uses the Ecosystem Services of other parts of the globe. This highlights the obligation to reduce such impacts to other communities and improve the local situation in some way. CBD Articles 1, 6,7,8,10,12, 13 and numerous Goals/Targets A-1,2,3,4, B-5,6,7,8, C-11, 12, 13, D-14, 15, E-17,18,19,20. This has numerous benefits, services linking to Health, recreation, tourism, art, culture, heritage, and general quality of life.

23. **Sustainable Agriculture** delivers many benefits hence **integrating CBD and BSAP into a new Agricultural and Farmland Policy and practices is a Priority**. It is a use, ecosystem service, an economic benefit and hands on method to build up awareness of the benefits and enjoyment of nature. Local agriculture is a more sustainable use of the natural resources, our soil, and builds up resilience to future climate change. It is a use often most compatible with biodiversity conservation if done in a traditional or organic way with no or low chemical use and without risks of genetic interferences. See Priorities advised for Terrestrial WG on Sustainable Agriculture.
24. **Protecting Farmland is a Priority**. However vast tracts of Agricultural land are now in the hands of various developers and thus needs to be controlled against abuses such as clearing of long abandoned vegetation, sometimes trees 40 years old, or fresh water marsh, under the pretext of farming. Farmland needs protection against conversion by dumping for site formation and this is achieved by tightening land excavation, dumping of fill materials and moving earth in the notes thus enabling Town Planning Board to better control use and provide conditions to ensure genuine and appropriate farming which does not destroy habitats, species and cause pollution. Otherwise this is a situation where failure to have necessary controls facilitates official toleration of destroy first build later mode of development. Sustainable use of natural resources requires such controls so that genuine farmland is available for genuine sustainable uses. **Providing Farmland is a priority** and a Nature Conservation Trust is capable of holding land and renting it to farmers for sustainable farming and habitat conservation. Other incentive systems can be implemented. In the Urban areas in particular conservation and husbandry of urban vegetation and trees is a priority and proposals for a **Tree Ordinance** have been in existence for years and should be taken forward as part of valuing urban biodiversity as well as wild biodiversity.
25. **Sustainable use of Natural Resources and Marine and Fisheries conservation** require particular improvements as noted throughout the Actions and Priorities. Achieving this will help meet many Targets. In particular other Marine Priorities include:
- (a) Marine Hotspot Maps to identify and protect potential EBSA and MP or areas with conservation merit.
 - (b) Protection under Wildlife laws amendments needed.
 - (c) Assessment improved under EIA Ordinance and TM and interim guidance notes,
 - (d) Wildlife Trade regulation needed for both terrestrial and marine species
 - (e) Improved planning and management of marine resources.
 - (f) Some 21 uses of marine resources are being identified and conservation with sustainable use needs to be enhanced under CBD Art 2 and 10 and Aichi Targets in the face of threats from exploitation, coastal habitat destruction, reclamation, sewage and waste disposal. See other FG reports.
26. **Action 12. Traditional knowledge, Education, Community Awareness and Participation**. Learning from the past and learning for the future are

closely connected. **Integrating CBD into the Education system is a Priority for Awareness raising and improved decision making and acceptance which delivers multiple Targets.** Local knowledge is focussed and practical and provides a historical value to the conservation values and ecosystem services of particular sites. It provides validity to current practises. Lessons from the past provide cultural and emotional links between past and present. **There is common ground** between resident villagers and conservation when the work devolves to understanding and using the best from the past to benefit the future generations. Awareness and co-operation are mutually enhanced, hence Article 8(j) of the CBD and Aichi Target 18 are important. Traditional knowledge is linked to Agriculture and sustainable beneficial uses of the land. The High to Medium Priority actions are short to longer term. CBD Articles include 6, 8,10, 12, 13 and many Goals/Targets A-1,2,4, B-5,6,7,9, C-11,12,13, D-14,15, E17,18,19, 20. The actions include:

- (a) **Building a Conservation Database.** Locating the persons and institutions with relevant knowledge and relevant documents, and urgently recording the knowledge because of the age of many persons. There is a mass of information which needs to be organized. Establishing a repository or archive of Traditional Knowledge relevant and beneficial to biodiversity conservation and sustainable use of natural resources and making this accessible.
- (b) Identifying rules and practises which serve as precedents for conservation and sustainable living can foster implementation, e.g. the Hoi Ha Fung Shui Wood Rules noted by Dr Patrick Hase in the Journal of the HK Branch of the RAS. Identifying and enhancing practises beneficial to conservation and sustainable living, the countryside economy, and agriculture are examples of outcomes.
- (c) The Education FG also has a Priority for an Inventory and Platform for learning, where data, resources can be shared and added via public participation. **This is part of the Priority for a data base of documents** so decision makers, leaders can be better guided and informed and citizens and the private sector can better assist in achieving CBD principles and Aichi Targets through the sharing of knowledge and participation.
- (d) **Capacity building** for Awareness and Mainstreaming CBD across departments, public and the private sector and use of the media are Priorities to be achieved. There is a huge knowledge gap to be filled by these Priorities as noted by several FGs.
- (e) These outcomes contribute to the Priority for a **Natural History Museum** as an institution growing up from better use of existing resources, Visitor Centres, the Hong Kong Herbarium (the oldest such institution in China), and with premises in suitable heritage buildings. It will provide a tangible institution and framework for BSAP work into the future with CBD/BSAP programmes and projects.
- (f) **Integrating CBD and related expertise into Heritage Policy and practices is a Priority.** Co-ordination is needed to make use of resources. The Country Parks Ordinance has a statutory duty to protect heritage in CPs. Town Planning supports heritage conservation. Antiquities Advisory Authority and Board can provide support under the Antiquities and Monuments Ordinance with its Office.

Government consultation for Built Heritage has started again. See Submission to Public Consultation on Conservation of Built Heritage in Hong Kong July 2014 by Civic Exchange which summarizes the Departments involved. The Hong Kong Countryside Foundation seeks to protect the links between heritage and nature. Protection of old villages aid conservation of nature, rural landscapes, countryside enjoyment and deliver multiple benefits. But buildings need history and knowledge and surrounding natural context, and all need each other for holistic conservation. These resources can be used to achieve the CBD objectives and Aichi Targets.

- (g) For example, Old Stone paths and bridges are tangible links between past and future, nature and history and culture and provide natural access to our beautiful and interesting countryside. Helping existing efforts in protecting and restoring these is a Priority.
- (h) **Funds are required to employ persons and NGOs to do the above and better use NGOs and volunteers.** Citizen science and volunteer Nature Wardens increase capacity where needed and make use of increasing awareness. Partnerships between government and NGOs can make for efficient use of resources and provide on going participation which is the CBD method so far. This is a case where heritage, knowledge, government, NGO and nature conservation support each other and an integrated or mainstreamed CBD can use resources more efficiently.
- (i) The Community needs an overarching Vision to create awareness and gain support for action. A BSAP manager to provide media and website access and provide a coherent message for conservation is essential.
- (j) Knowing the value of conservation and ecosystem services requires an assessment by a professional person, such as a chair professor in a university to assess the value from a quality of life perspective to facilitate integration into government accounting and decision making.
- (k) See Education FG and Traditional Knowledge FG and NGO FG Reports and links to Global Sustainability and local Sustainable use of natural resources FGs and Agriculture, which illustrates the number of Targets achievable by adopting these Priorities.

27. **Action 13. Indicators for progress and measurements of compliance.** A baseline of 1976 is suggested as this coincides with the beginning of the Country Parks and much loss of countryside from new town construction and reclamation. Indicators for trends are contained in the Quick Guides to the Aichi Targets. See CBD Article 7,8 and guidance documents, Framework 2011, and Hopkinson BSAP Booklet 2012. These suggestions can be selected and tailored to individual places resources, needs and priorities. **Indicators can be flagship species, trends easy to measure with existing data and systems, and which best inform actions which are known to be needed because of continuing gaps and threats.** Local needs and priorities have identified the following indicators at this stage:-

- (a) Trends in extent of selected ecosystems and habitats, T5. Trends in representative coverage of protected areas and sites of particular importance for biodiversity, T11. Numbers of Enclaves with

recognised ecological importance protected as CP, percentages of Enclaves with recognised ecological importance protected as CP. T5, T11.

- (b) Trends in proportion of degraded and threatened habitats, T5. Numbers of new Small Houses planned, areas of V zones made, and applications granted based on need, and based on demand, T3, T10.
- (c) Trends in condition and vulnerability of ecosystems T5. Cumulative impact assessed, not the incremental damage approach, many Targets.
- (d) Percentage of PAs actively managed for conservation, T11
- (e) Percentage and hectares of ecologically important areas outside PA system.
- (f) Total area of ecologically sensitive habitats planned for or directly impacted by development, zoning change, or contamination that is legitimate and illegal or unauthorized, T5.
- (g) Areas and percentages of lowland habitats including streams, marshes, wetlands, ponds, and agricultural lands lost to development.
- (h) Deep Bay management plan established.
- (i) Trends in the connectivity of protected and other areas integrated into land and sea scapes. T11.
- (j) Implementation of the annually updated conservation programme by AFCD for PA under their control
- (k) Implementation of conservation programmes/ measures by other Departments eg Plan D, Lands D, LCSD, for areas under their control, T2
- (l) Area of SSSI, CA, CPA, other conservation zonings, and GB gained and lost, T5
- (m) Trends in fragmentation of natural habitats T5. Area of vegetation affected by development
- (n) Length of stream affected,
- (o) Length of coastline affected
- (p) Length of channelized streams/rivers being restored or hectares/function of damaged ecological hotspots being restored,
- (q) Unauthorized access routes made and not restored.
- (r) Numbers of septic tanks and soakaway systems or V zones near watercourses or streams or water bodies
- (s) Numbers of visitors visiting the countryside
- (t) Systems in place to obtain improved conservation related documentation, laws and administrative practices and the number of improvements to laws and practices by reference to CBD principles, continuing review and monitoring.
- (u) Trends in integration of biodiversity, sustainable use of natural resources and ecosystem services into government documentation and decision making. T2
- (v) Trends in number and value of incentives and subsidies harmful to biodiversity removed, reformed or phased out. T3
- (w) Trends in identification, strengthening and establishment of incentives that reward positive contribution to biodiversity and ecosystem services and penalize adverse impacts. T3

- (x) Trends in Ecological Footprint and related concepts, with footprint measured regularly and used as a measure to guide sustainable use, planning and decision making, see other FGs. T4
- (y) Trends in population risk and extinction risk of utilized species, including species in trade. T4.
- (z) Trends in areas of forest, agriculture and aquaculture ecosystems under sustainable management T7
- (aa) Trends in pollution in Country Park Enclaves, see T8.
- (bb) Institutions, Authority, Task forces, set up to achieve action
- (cc) Others to be further discussed with FGs, WGs etc.
- (dd) Target dates 2016.

28. **Action 14. Systems and Institutions to provide for continuing BSAP progress**

- (a) A dynamic continuing BSAP process with Systems to obtain and make a data base of Government and locally useful conservation related materials, references, publications and resources, to obtain and review legislation, publications, policies and practices and to identify gaps and needs for future systematic and continuing improvements based on criteria including whether they implement the core conservation principles and strategies of the CBD such as the avoidance principle, ecosystem approach, precautionary principle, cumulative impact assessment, and the Aichi Targets, T2 and T17. CBD Articles 6 and 20 and most Goals/Targets.
- (b) A BSAP Authority with 3 Working Groups and Focus Groups to continue the work, and senior professional BSAP expert.
- (c) Natural History Museum as part of the institutional framework to obtain and provide information, guidance, awareness, education, and help to implement the BSAP programmes.
- (d) Red List Group.
- (e) Lands and Hotspots Taskforce.
- (f) Wildlife Crime Unit.
- (g) Statutory Conservation Trust.
- (h) System for improved fund raising from private sources. For example, to support the Law Reform Commission Report 2013 recommendation for a list of charitable purposes which makes it explicit that “the advancement of environmental protection and improvement” is a charitable purpose and also to make representations to IRD to issue a practice note stating that when such purposes are for implementing the Convention on Biological Diversity, this is for the public benefit or benefit to the community by assisting Hong Kong in achieving its global obligations, such as to repair its global environmental damage.
- (i) Systems for monitoring and setting indicators, and regular or annual review of indicators to determine continuing improvement and meeting of the Targets and BSAP objectives, all Targets, T2 and T17.
- (j) System for annual review of legislation and administrative systems and practices and documents relevant to CBD and improving implementation and performance, T2 and T17.

- (k) System for Conferences of the Participants with regular meetings to monitor CBD and BSAP compliance and progress by means of continuing WGs and FGs.
- (l) Reporting annually to Legislative Council.
- (m) Policy direction with comprehensive conservation policy to achieve CBD and Aichi Targets T17 and
- (n) A substantial increase in resources with a Budget to achieve the above, T20.
- (o) Target dates 2020 and continuing.

29. Action 15. Mainstreaming CBD into Government has to be achieved as a High Priority. The obligations of the Bureaux and Departments will have to be set out clearly and in a measurable and quantifiable way so that compliance can be established and accountability is achieved. Some steps include as follows:

- (a) Secretary for Environment to prepare a briefing paper for the Chief Secretary's Policy Committee to inform all Policy Secretaries of their responsibilities for compliance with the CBD and BSAP and to field questions.
- (b) S for E to prepare Information Note for Executive Council.
- (c) S for E to prepare Information Note for Environment Panel and the Development Panel of the Legislative Council.
- (d) Director of Administration to issue a General Circular for circulation to all Directorate Officers and above in all Departments and Bureaux setting out their obligations to comply with CBD and BSAP.
- (e) S for E/Permanent Sec for Environment to conduct a briefing on CBD and BSAP for all Permanent Secretaries and Directorate Staff of all Bureaux and Departments.
- (f) Information Notes and Briefing for relevant Boards and Committees, Town Planning Board, ACE, Council for Sustainable Development, Country and Marine Parks Board and Authority.
- (g) **Responsibility to carry forward the work, and designation of the persons and unit to be responsible for CBD and BSAP and monitoring compliance.**
- (h) **Bureaux and Departments to prepare annual CBD and BSAP Reports.**

30. This set of 15 Actions are part of an integrated package. Cutting out Actions and parts thereof will reduce the efficacy of the whole.

Further considerations to assist in deciding Priorities.

31. Relevant CBD Aichi Biodiversity Targets as Outcomes with reference to existing documents and lists of priorities:

- (a) Awareness increased T1
- (b) CBD mainstreamed into Government, Business and Society, T2
- (c) Incentives reformed T3.
- (d) Sustainable consumption and production, sustainable use of natural resources, T4, 6 and 7.
- (e) Habitat Loss halved or reduced T5.

- (f) Pollution reduced T8
 - (g) Pressures reduced T10
 - (h) Protected Areas increased and improved T11,
 - (i) Extinction prevented T12, Genetic diversity maintained T13
 - (j) Ecosystems and Ecosystem Services safeguarded T14 and Ecosystems restored T15
 - (k) Knowledge improved T8 and 19
 - (l) Adopted as Policy T17,
 - (m) Financial resources increased T20.
32. This is related to/dependent upon other obligations and expected outcomes, including:
- (a) Relates to Improved Habitat Assessment and Management (FG), improved Red Listing (FG), with lists protected by amendments to existing legislation, e.g. EIAO, FCO, etc
 - (b) improved assessment of Impacts and enforcing the EIA Ordinance,
 - (c) Awareness increased Target 1, (FG)
 - (d) Ecosystem services valued Target 14, (FG) and
 - (e) Mainstreaming T2 and Financial resources increased, Target 20.

Legislative implications

33. The present legislative framework requires some amendments and further expert and DoJ advice should be obtained for improvements, but is mostly adequate to achieve the desired outcomes **provided the responsible departments are adequately resourced, trained, and motivated to enforce the law together with improved administrative arrangements and guidelines and practice notes to implement the CBD. The framework includes**
- (a) Country Parks Ordinance Cap 208, Marine Parks Ordinance Cap 476,
 - (b) Lands (Miscellaneous Provisions) Ordinance, Cap 28,
 - (c) Lands Resumption Ordinance, Cap 124,
 - (d) Town Planning Ordinance Cap 131,
 - (e) Water Pollution Control Ordinance and TM, Cap 358,
 - (f) Forests and Countryside Ordinance Cap 96,
 - (g) Wild Animals Protection Ordinance Cap 170,
 - (h) Fisheries Protection Ordinance Cap 171,
 - (i) EIA Ordinance and TM Cap 499,
 - (j) Protection of Endangered Species of Animals and Plants Ordinance, Cap 586,
 - (k) Theft Ordinance and crime generally, Cap 210,
 - (l) Antiquities and Monuments Ordinance Cap 53,
 - (m) Waterworks Ordinance Cap 102,
 - (n) Others such as Import and Export Regulations, Cap 60, A1.
34. **Need for amending existing legislation or new legislation? Will new legislation be required, or will existing legislation be amended?**
- (a) Initially enforcement of existing legislation in the way originally intended, is essential. This requires staff and resources and clear

policy direction and improved guidance documents to help implement CBD.

- (b) Amendments to legislation to use the improved listing of species of conservation significance will be needed. Red List to be implemented by amendment to existing legislation to protect by laws all species so listed from time to time
- (c) Amendments per Whitfort Report.
- (d) Ultimately a CBD Ordinance which gives local legal effect to the CBD and the Government Policy on conservation should be enacted.
- (e) Implications for other legislation require study in due course but in the interim some improvements can be achieved by administrative amendments to existing notes, standards and practices and new guidance documents.
- (f) Reviewed regularly by the Group/Taskforce/Unit under Action 14.

Policy implications

35. The existing policies affected and improved and implemented include as follows:
- (a) Conservation and sustainable development guided by the CBD should become a primary policy objective and implemented in practice. NNCP of 2004 is to be replaced by BSAP. T2, T17.
 - (b) Country Parks Enclave Policy, is to protect the integrity of the Country Parks as a whole by means of protecting Enclaves by designation or extension of surrounding country parks, or use of statutory planning to protect under OZP. The use of DPA is used as a stop gap following the precedent of Tai Long Sai Wan enclave and park extension is a desirable precedent achieving CBD targets. T5, T11.
 - (c) Small House Policy has been extended to Country Park Enclaves by means of large proposed V zones thus adding speculative pressures for developments contrary to principles and Targets. This impacts on all the Targets and the hoped for Outcomes, causing perverse incentives T3, speculative pressures T10, pollution T8, and loss or damage to habitat, ecosystems, T5 and links to various departments responsible for impacts.
 - (d) DLO and DO for tightening up administration of Small House Policy and enforcement of existing laws.
 - (e) Development Bureau for providing land for affordable housing and Plan D for more planning controls to reduce or prevent scope for Small House Policy impacts and other threats to the Targets.
 - (f) HAB RIP (rural improvement) policy for roads, widening concrete paths, countryside infrastructure, and associated aids to development near sensitive areas.
 - (g) CEDD, for risks caused by development such as roads, housing in unsuitable locations and near slopes and streams.
 - (h) DSD, for risks caused by flooding and pollution, impacts caused by channelization, positive effects caused by restoration of channels.
 - (i) WSD, for protecting Water Gathering Grounds etc.
 - (j) ENB, EPD and AFCD to review need to strengthen current level of policy attention given to protect local fisheries and agricultural

- resources [as promulgated in the EIA, the EIAO TM, the project EIA Study Briefs and various guidance notes] when conducting project EIAs for major new developments and redevelopments
- (k) ENB, EPD and AFCD to review policy direction on the effectiveness of the existing Strategic Environmental Assessment process, whether and how it should be strengthened to improve objective examination of alternatives means of project delivery, to avoid the observed frequent trade-offs that inevitably sacrifice conservation interest for economic gains (or developments) without regard to the limits of local carrying capacities.
 - (l) EPD for water pollution and sewage related enforcement to reduce impacts on water bodies in existing areas of the New Territories without provision of sewerage connection. EPD, DSD and PlanD to review need to advance major sewerage and sewage treatment facilities to cater for development intent envisaged for the next decade or two [Hong Kong 2030]
 - (m) LCSD for urban and fringe areas.
 - (n) ENB and AFCD for Country and Marine Parks.

36. The public dimension and concern, includes:

- (a) **Public expectations and increasing awareness** for conservation and protecting and enhancing the public enjoyment of the countryside was an official reason for the Country Park Enclave Policy starting in 2010, T1.
- (b) There is periodically great public concern such as for the Tai Long Wan case of 2000-2006 when Planning Department proposed a large V zone to deal with demands from IVs. Eventually the V zone was confined to the existing building lots with the surroundings being zoned as SSSI and CA. This is a desirable precedent achieving CBD principles and Aichi Targets.
- (c) The Save our Country Parks Alliance and its allies cover most of the Environmental NGOs of Hong Kong. The public interest in 13 million or more visitors a year has been noted in the Judgment on the JR challenging the Country Park Extension. **This consensus of opinion for improvements has been consistently in place for decades.**
- (d) The Small House Policy as currently abused and practiced is a “perverse incentive” T3, which demands proportionately large land resources for no public benefit, but with benefit for narrow vested interests causing damage to the public enjoyment of the countryside. It can be refined to its original purpose to provide a residence for those who have a proved need for a residence in order to live in their ancestral village. **Tightening of the administrative process** for applications such as requiring proof of need, restrictions on alienation can be implemented, see below.
- (e) Town Planning Board hearings with detailed submissions for conservation have reflected significant public awareness of conservation and the use of a statutory process with some element of transparency and participation to improve local quality of life on a case by case basis.

- (f) **Past and current cases have exposed the needs for improvements as per this Report.**
- (g) The other practices which facilitate abuse need to be amended.

37. **Conservation has cross sectoral support on public benefit grounds**, it is in the public interest, and it is desirable to have LegCo involvement. Often **desired outcomes can be achieved by a change in policy emphasis by the highest levels** such as CE and CS and the co-operation of relevant bureaux such as Development Bureau. This would lead to improvement and focussed **tightening of administrative procedures** which can achieve significant results without recourse to LegCo approval and the time that takes some interested sectors and benefits include as follows:

- (a) LegCo Complaints Panel are involved in respect of some Enclaves such as Hoi Ha with many signatures on a petition etc.
- (b) Ombudsman involved with some issues on SHP, unsafe access, sewage.
- (c) Public expectations and support for Country Park extensions via Town Planning and HAB processes.
- (d) Vision for future with continuing improvement, T1 awareness raised
- (e) Public benefits enabled by Government for the greater good of the greater number.
- (f) Health and recreation and aesthetic and social benefits, Health Bureau Education Department, and others.
- (g) Ecosystem services, values of the countryside safeguarded,
- (h) Water and Food security, WSD,
- (i) Air quality replenishment from forests, ENB, EPD, HealthD.
- (j) Water quality protected, ENB, EPD, AFCD, FEHD, LCSD
- (k) Legacy for future generations. Connecting the CPs into A future National Park for China. CE
- (l) Sustainable use of natural resources EPD, AFCD
- (m) Traditional Chinese Medicine sources, vital medicine chests to be conserved, a basis for current research and future propagation for use under sustainable methods. Health Bureau.
- (n) Genetic resources and wild crop relatives protected.
- (o) Financial resources and staff and capacity increased, hence LegCo supervision and involvement, T20.

NB. This is work in progress done without having all the FG materials. More work can be done when further feedback and materials are provided to us from FGs WGs SC and Secretariat.

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Ruy Barretto SC
Legislation Focus Group
[8700.rb]