



Inter-linkages between the UNCCD and CBD/BD Act in India - An Analysis



Centre for Biodiversity Policy and Law
National Biodiversity Authority

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Executive Summary

This CEBPOL Study Report has analysed linkages and synergies in implementing the United Nations Convention to Combat Desertification and the UN Convention on the Biological Diversity in India based primarily on the National Agriculture Policy, 2000, National Biodiversity Action Plan, 2008 and the Biological Diversity Act, 2002. Both these legally binding Conventions were adopted during the UN Conference on Environment and Development, held in Rio in June 1992, also known widely as the Rio Earth Summit, and have been ratified by 196 Parties, including India, making them acceptable nearly universally.

The new UNCCD 2018 -2030 Strategic Framework aims at achieving 'Land Degradation Neutrality' so as to restore productivity of vast areas of degraded farm land, improve the livelihoods of affected farming families and reduce the impact of drought on productivity. As the dynamics of land, climate and biodiversity are inseparably connected, the UNCCD collaborates closely with the other two Rio Conventions dealing with biodiversity and climate change to meet the emerging complex challenges with an integrated approach.

This report discusses three broad aspects of the abovementioned linkages across eight areas having potential for developing synergies in implementing the UNCCD and the CBD in India. The document and analysis are slightly technical in nature and the presented information would best benefit readers who are already familiar with this subject of biodiversity cluster Multilateral Environmental Agreements and the involved terminology.

The report also points out an important gap in developing synergies in implementing multilateral environment agreements in India, namely, lack of clearly naming the key institutions along with their specific roles and developing a joint administrative mechanism for smooth working. It concludes with just one recommendation urging the main actor in synergistic implementation, namely, the National Biodiversity authority (NBA) to initiate the process and collaborate more effectively with the Central Government.



Acknowledgement

The CEBPOL project has afforded me a unique opportunity to engage with scholarship and policy guidance related to strengthening synergies among the biodiversity-cluster Multilateral Environmental Agreements. It has encouraged and facilitated thought-exercises that draw upon the knowledge gained to inform policy-guidance in the Indian context. I am grateful to the project per se, for the learning bestowed.

In connection to this particular assignment, I have benefitted from comments on an earlier draft and discussion with Ms. Amarjeet Ahuja and Ms Maja Stade. The junior legal consultant at NBA, Ms Vidya Vijayaraghavan helped strengthen my understanding of the BD Act. Secretary, NBA Shri T Rabikumar and Prof R. Rana offered the scrutiny of their expertise as reviewers. I place on record my appreciation for all their contributions. Shortcomings, if any, remain entirely my own.



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Inter-linkages between the UNCCD and CBD/BD Act in India

India has ratified the United Nations Conventions to Combat Desertification (UNCCD) as well as the Convention on Biological Diversity (CBD) that seeks to ensure conservation of biodiversity, its sustainable use and equitable sharing of benefits. At the same time, the country follows a dualist, in contrast to a monist approach to international law, which requires the adoption of domestic legislation in keeping with the commitments under the international agreements entered into. While the UNCCD does not have a corresponding specific legislation in India, it has several of its commitments addressed in generic environment protection and sustainable development legislation like the Environment Protection Act (1986) and policy pronouncements like the National Environment Policy (2006). The commitments to the CBD are fulfilled by a combination of domestic laws like the Forest Conservation Act (1980), Wildlife Protection Act (1972), and most recently the Biological Diversity Act (BD Act) (2002) which makes an explicit reference (unlike the others that predate the CBD) to the country's obligations as a party to the CBD.

Strengthening synergies among the biodiversity-cluster MEAs has been a recognised objective at the international level for some years now. The objective is explicitly stated in the texts of the conventions themselves. In addition, deliberations and exercises undertaken by the Conference of Parties (COP) of both MEAs have highlighted the imperative for greater cooperation among the Rio Conventions. Domestic legislation is one key enabler that permits democratic societies bring policy directives to life. In this light, this document is intended as a guidance document and ready-reckoner in relation to facilitating better understanding and appreciation among stakeholders of the following aspects:

- I. Key themes and areas of synergy to the UNCCD provided for in the BD Act
- II. Key themes and areas of synergy with the CBD/BD Act provided for in the UNCCD
- III. Discussion on 'synergy' in relation to the NAP and NBAP in the Indian context and direction for possible future work

i. Key themes and areas of synergy to the UNCCD provided for in the BD Act

The preamble of the BD Act states clearly, among other things that it is "An Act to provide for conservation of biological diversity". Section 2(b) defines "biological diversity" as the 'variability among living organisms from all sources and the ecological complexes of which they are a part, and includes diversity within species or between species and of ecosystems'. In the references made to 'ecological complexes of which living organisms are a part', and 'diversity...of



ecosystems', the BD Act has clear linkages to, and may be broadly interpreted to focus on land, as defined in the UNCCD. I.e. Art. 1(e) of UNCCD states "land" means the terrestrial bio-productive system that comprises soil, vegetation, other biota and the ecological and hydrological processes that operate within the system.

Whilst "regulation of access to" and "approval...(to) obtain any biological resource" is emphasised in practice as the core work of the NBA, Section 8 (1) emphasises that the NBA is established by the Central Government for the "purposes (in plural) of this Act" which can be read in tandem with Section 18 (3) (a), which delineates the Functions and Powers of the NBA as including "advise the Central Government on matters relating to the conservation of biodiversity, sustainable use of its components and equitable sharing of benefits arising out of the utilization of biological resources". Further, this is supported by 18 (3) (c), which mandates NBA to "perform such other functions as may be necessary to carry out the provisions (one of which is conservation of BD as emphasised in the previous paragraph) of this Act."

Likewise, Section 23 (a) delineates regarding the functions of the State Biodiversity Boards (SBBs), that it shall be to "advise the State Government, subject to any guidelines issued by the Central Government, on matters relating to the conservation of biodiversity, sustainable use of its components...". Similar to section 18 (3) (c) with regard to NBA, Section 23 (c) calls upon SBBs to "perform such other functions as may be necessary to carry out the provisions of this Act or as may be prescribed by the State Government." Both Sections 18 (3) and 23 thus may be broadly interpreted to accommodate desertification and drought a legitimate area of concern and engagement under the BD Act.

Further, the SBB in connection to the proviso of the act that Indian citizens or corporates shall access bio resources occurring in the state under its jurisdiction, only with prior intimation (Section 7); has the power under Section 24 (2) to "prohibit or restrict any such activity if it is of the opinion that such activity is detrimental or contrary to the objectives of conservation and sustainable use of biodiversity...". In the context of bio resources derived from land, it allows for an ecosystem approach (as advocated by the CBD) to be actively pursued with regard to evaluating the merits of allowing access to such resources.

Section 27 (2) which deals with the utilization of the National Biodiversity Fund delineates under clause (b) that the fund can be utilized for "development of such areas from where such biological resources or knowledge associated thereto has been accessed" and for, as per clause (c) "socio-economic development of areas referred to in clause (b) in consultation with the local bodies concerned." The development of 'areas' as referred to in this section, that yield bio resources, can certainly be used for the development of land, and the prevention of its degradation, where relevant and appropriate.



Under Section 36 of the BD Act clause (1), (2) and (3) have a very important bearing of the UNCCD mandates of addressing drought, desertification and land degradation. Section 36 (1) delineates “The Central Government shall develop national strategies, plans, programmes for the conservation and promotion and sustainable use of biological diversity including measures for identification and monitoring of areas rich in biological resources, promotion of in-situ and ex-situ, conservation of biological resources, incentives for research, training and public education to increase awareness with respect to biodiversity. Section 36 (2) delineates “Where the Central Government has reason to believe that any area rich in biological diversity, biological resources and their habitats is being threatened by overuse, abuse, or neglect, it shall issue directives to the concerned State Government to take immediate ameliorative measures, offering such State Government any technical and other assistance that is possible to be provided or needed. Section 36 (3) states “The Central Government shall, as far as practicable, wherever it deems appropriate, integrate the conservation, promotion and sustainable use of biological diversity into relevant sectoral or cross-sectoral plans, programmes and policies.

At this juncture it is pertinent to say that, whilst most attention is focused on the ecological consequences of above-ground biodiversity loss, the microbial biodiversity of even one square inch of healthy soil is known to be phenomenal. The FAO’s recently published Technical Summary on the Status of the World’s Soil Resources (2015) indicates that human-induced soil degradation in the World, among all the five global regions, is highest in Asia. Within India, nearly half the soil has been declared degraded (ibid, p. 41), the causes of these have been listed as being (in decreasing order of importance) water erosion, wind erosion, salinization, loss of nutrients and waterlogging. Water and wind erosion, in general, is found to affect the already fragile natural resource base of drylands, the most. Erosion of fertile top-soil by wind and dust storms occurring during drought periods is a major cause of concern, and a key factor explaining huge losses of fertile topsoil (ibid). As a country that needs to feed almost 17% of the world’s people and support 18% of the world’s livestock with just 2.4% of the world’s land area of which a major part is dryland, 45% of the agricultural production happens on drylands (NAP to Combat Desertification, 2001). This has remained fairly unchanging over the last three decades or more (J.E Parr, B.A. Stewart, S.B. Hornick, and R.P. Singh, 1990; Sujit K. Nath, H. K. De and B. K. Mohapatra, 2016). Dryland agriculture which is predominantly rainfed, and drought and dryland management more broadly, suggests itself as a key theme that links the BD Act to the UNCCD in the light of the provisions of the sections discussed above. For the same reason, agrobiodiversity rightly also is an important focus/ or is provided for within the scope and provisions of the Act , eg. Section 36 (5) states the Central Government shall endeavour to respect and protect the knowledge of local people relating to biological diversity, as recommended by the NBA through such measures, which may include registration of such knowledge at the local, State or National levels, and other measures for protection, including sui-generis system. Section 41 (on Biodiversity Management Committees (BMCs)) makes this linkage to agrobiodiversity even clearly by stating in clause (1) “Every local body shall constitute a BMC within its area for the purpose of promoting conservation, sustainable use, and documentation of biological diversity, including preservation of habitats, conservation of land races,



folk varieties and cultivars, domesticated stocks and breeds of animals and microorganisms and chronicling of knowledge relating to biological diversity.” The local biodiversity fund, may further, as per section 42 (2) be “...used for conservation and promotion of biodiversity in the areas falling within the jurisdiction of the concerned local body...”

Finally, Section 64 delineates “The NBA shall, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations for carrying out the purposes of the Act”, which in principle confers on its wide powers, though limited by the contravening section 48 (1) which makes the NBA “...bound by such directions on questions of policy as the Central Government may give in writing to it from time to time.”

ii. Key themes and areas of synergy with the CBD/BD Act provided for in the UNCCD may be characterised as the following

- a. Explicit references to how the UNCCD has linkages to the CBD/ BD Act
- b. Key terms and definitions in UNCCD that indicate a common turf with the Indian BD Act
- c. References in the general obligations/provisions of the UNCCD that indicate an overlap with those of the BD Act
- d. Areas of action and the modalities identified for these as an area of synergy
- e. CEPA goals as an area of synergy
- f. Reporting requirement to the UNCCD Secretariat as an area of Synergy
- g. Commitments to Asia-region specific sustainable development goals as an area of synergy
- h. Financial mechanism (GEF) as an area of synergy with the CBD



Each of these eight identified themes are dealt with in more detail below:

a. Explicit references to how the UNCCD has linkages to the CBD/ BD Act

Sl.No	Relevant section of the UNCCD	Reference	Corresponding linkages to CBD/BD Act
1	Preamble	Bearing also in mind the contribution that combating desertification can make to achieving the objectives of the United Nations Framework Convention on Climate Change, the Convention on Biological Diversity and other related environment conventions.	Preamble of the BD Act Further, 8(1) refers to the NBA having “purposes” in plural (over and above its regulatory functions) and several sections eg: 18(3), 23 (a), 24 (2), 27(2)b, c, have a bearing on the conservation and sustainable use related aspects of the act
2	Article 4	The Parties shall implement their obligations under this Convention, individually or jointly, either through existing or prospective bilateral and multilateral arrangements or a combination thereof	The reference to “multilateral arrangements” can be taken to include other MEA-related cooperation as well, such as that in relation to the CBD
3	Article 19. 1(j)	(In the context of Capacity Building, including (sic) institution building to develop local/national capacity to address desertification/drought, supporting measure suggested includes) 1(j) through more effective operation of existing national institutions and legal frameworks and where necessary, creation of new ones, along with strategic planning and management	The UNCCD predates the BD Act, and the latter in that sense is a new legal framework which also created a three-tier institutional structure (NBA, SBBs and BMCs). More effective operation of these institutions, as the UNCCD text point out, could be a supporting measure to address desertification/ drought.



Sl.No	Relevant section of the UNCCD	Reference	Corresponding linkages to CBD/BD Act
4	Article 22.2(i)	(With regard to mandate of the COP) 2(i). promote and strengthen the relationship with other relevant conventions while avoiding duplication of effort	Direct and unambiguous linkage to CBD
5	Article 23.2(d)	(With regard to functions of the Permanent Secretariat) 2(d). To coordinate its activities with the secretariats of other relevant international bodies and conventions	Direct and unambiguous linkage to CBD
6	Annex II (regional implementation annex for Asia) Article 8. 1(b)	(On Cooperation and coordination mechanisms among parties in the region) 1(b). cooperation and coordination of actions, including bilateral and multilateral arrangement at the subregional and regional levels	“Multilateral arrangements” could in a broad interpretation mean other MEAs as well

b. Key terms and definitions in UNCCD that indicate a common turf with the Indian BD Act

Sl.No	Relevant section of the UNCCD	Reference	Corresponding linkages to CBD/BD Act
1	Article 1 (e)	“land” means the terrestrial bio-productive system that comprises soil, vegetation, other biota and the ecological and hydrological processes that operate within the system.	2(b) defines “biological diversity” as the variability among living organisms from all sources and the ecological complexes of which they are part and includes diversity within species or between species and of ecosystems Further, sections 18(3), 23 (a), 24 (2), 27(2)b, c all can be interpreted to have a bearing on bringing “land” under the purview of the BD act



c. References in the general obligations/provisions of the UNCCD that indicate an overlap with those of the BD Act

Sl.No	Relevant section of the UNCCD	Reference	Corresponding linkages to CBD/BD Act
1	Preamble	Recognizing that national governments play a critical role in combating desertification and mitigating the effects of drought and that progress in that respect depends on the local implementation of action programmes in affected areas	Besides being a direct call for local action programmes, it has linkages to section 36 of the BD Act
2	Article 5 (entirely) Obligations of affected country parties	<ul style="list-style-type: none"> -priority to combating desertification, addressing drought through adequate resource allocation -establishing strategies and priorities within framework of sustainable development plans/policies -addressing underlying causes/ socio-economic factors contributing to desertification -promoting awareness and participation of local populations -creating enabling environments through existing legislation 	<p>The Strategic Plan/ Aichi Targets and NBTs in the relation to CBD, constitute a framework of SD plans/policies.</p> <p>The BD act allows for participation of local populations through the institutional frameworks provided for and is an existing legislation.</p>
3	Article 10 on National Action Programmes 2 (e)	Promote policies and strengthen institutional frameworks which develop cooperation and coordination , in a spirit of partnership, between the donor community, governments at all levels, local populations and community groups and facilitate access by local populations to appropriate information and technology	The SBB-BMC network is in theory, one such institutional framework



d. Areas of action and the modalities identified for these as an area of synergy

Sl.No	Relevant section of the UNCCD	Reference	Corresponding linkages to CBD/BD Act
1	Article 9 (1)	...Parties...shall as appropriate , prepare, make public and implement national action programmes , utilizing and building to the extent possible, on existing relevant successful plans and programmes, and subregional and regional action programmes , as the central element of the strategy to combat desertification and mitigate the effects of drought. Such programmes shall be updated through a continuing participatory process on the basis of lessons from field action, as well as the results of research. The preparation of national action programmes shall be closely interlinked with other efforts to formulate national policies for sustainable development.	The Strategic Plan/ Aichi Targets and NBTs in the relation to CBD, constitute a framework of SD plans/policies.
2	Article 10 (2)	<p>(a) Incorporate long-term strategies to combat desertification and mitigate the effects of drought, emphasize implementation and be integrated with national policies for sustainable development</p> <p>(b) Give particular attention to the preventive measures for lands that are not yet degraded or which are only slightly degraded</p> <p>(c) Promote policies and strengthen institutional frameworks which develop cooperation and coordination, in a spirit of partnership, between the donor community, governments at all levels, local populations and community groups, and facilitate access by local populations to appropriate information and technology</p>	<p>Sections 18 (3) (a), 23 (a) and 36 (1) of the BD Act</p> <p>With regard to (a) reiterate that the Strategic Plan/ Aichi Targets and NBTs in the relation to CBD, constitute a framework of SD plans/policies which do reflect UNCCD objectives (eg. NBT 3,8,11)</p> <p>With regard to (c), there are linkages to NBT 3, and for (f) to NBT 11</p>



Sl.No	Relevant section of the UNCCD	Reference	Corresponding linkages to CBD/BD Act
		(d) Provide for effective participation, at the local, national and regional levels of non-governmental organizations and local populations, both women and men, particularly resource users including farmers and pastoralists and their representative organizations in policy planning, decision making, and implementation and review of NAPs	BD act institutional framework can serve to meet the requirement of (e), especially section 41 (1)
3	Article 14.(2) Coordination in the elaboration and implementation of action programmes	The parties shall develop operational mechanisms, particularly at the national and field levels, to ensure the fullest possible coordination among developed country parties, developing country parties and relevant intergovernmental and non-governmental organisations, in order to avoid duplication, harmonize interventions and approaches, and maximise the impact of assistance.	The NAP and NBAP (with corresponding NBTs) for instance, may be considered operational mechanisms that incorporate IPBES inputs from assessments on BDES, pollinators, or land-degradation to synergise between the 2 MEAs
4	Annex II (regional implementation annex for Asia) Article 5. 1	(With regard to cooperation for subregional or joint action programs) Parties may jointly agree to entrust subregional, including bilateral or national organisations , or specialised institutions, with responsibilities relating to the preparation, coordination and implementation of programmes. Such organizations or institutions may also act as focal points for the promotion and coordination of actions pursuant to articles 16 to 18 of the Convention. (These deal with technical assistance and cooperation, technology transfer and partnerships)	NBA could play this role in the light of section 18(3) which confers on its wide powers, provided these are matched by staff numbers and know-how made available in other ways.

**e. CEPA goals as an area of synergy**

Sl.No	Relevant section of the UNCCD	Reference	Corresponding linkages to CBD/BD Act
1	Article 19. 1(a-d). Capacity building, education and public awareness	<p>(a) Through the full participation at all levels of local people, particularly at the local level, especially women and youth, with the cooperation of non-governmental and local organizations</p> <p>(b) By strengthening training and research capacity at the national level in the field of desertification and drought</p> <p>(c) By establishing and/or strengthening support and extension services to disseminate relevant technology methods and techniques more effectively, and by training field agents and members of rural organizations in participatory approaches for the conservation and sustainable use of natural resources</p> <p>(d) By fostering the use and dissemination of the knowledge, know-how and practices of local people in technical cooperation programmes, wherever possible</p>	Sections 18(3), 23 (a), 24 (2), 27(2)b, c of the BD Act can be interpreted to have a bearing for Article 19 of UNCCD



f. Reporting requirement to the UNCCD Secretariat as an area of Synergy

Sl.No	Relevant section of the UNCCD	Reference	Corresponding linkages to CBD/BD Act
1	Article 26. 2-3	<p>(With reference to the reporting requirement to the COP)</p> <p>2. Affected country parties shall provide a description of the strategies pursuant to article 5 and of any relevant information on their implementation</p> <p>[Article 5 is on the Parties' obligations in relation to UNCCD]</p> <p>3. Affected country parties which implement action programmes pursuant to articles 9 to 15 shall provide a detailed description of the programmes and their implementation</p>	<p>The NBAP and NBT (elements of CBD related reporting), pursuant also to thematic area (d)3 above, is an area of synergy in relation to this.</p> <p>BD Act provisions (like 36 (1)) could be more responsive to the obligations.</p>

**g. Commitments to Asia-region specific sustainable development goals as an area of synergy**

Sl.No	Relevant section of the UNCCD	Reference	Corresponding linkages to CBD/BD Act
1	Annex II (regional implementation annex for Asia) Article 2 (1)	<p>In carrying out their obligations under the Convention, the Parties shall, as appropriate, take into consideration the following particular conditions which apply in varying degrees to the affected country Parties of the region:</p> <ul style="list-style-type: none">(a) The high proportion of areas in their territories affected by, or vulnerable to, desertification and drought and the broad diversity of these areas with regard to climate, topography, landuse and socioeconomic systems(b) Promote the integrated management of drainage basins, the conservation of soil resources and the enhancement and efficient use of water resources(c) Strengthen and/or establish information, evaluation and follow-up and early warning systems in regions prone to desertification and drought, taking account of climatological, meteorological, hydrological, biological and other factors.	Sections 18(3), 23 (a), 24 (2), 27(2)b, c of the BD Act can be brought into service of UNCCD in these respects
2	Annex II (regional implementation annex for Asia) Article 2 (2)	Consistent with article 10 of the Convention, the overall strategy of national action programmes shall emphasize integrated local development programmes for affected areas, based on participatory mechanisms and on the integration of strategies of poverty eradication into efforts to combat desertification and mitigate the effects of drought	-do-



Sl.No	Relevant section of the UNCCD	Reference	Corresponding linkages to CBD/BD Act
	Annex II (regional implementation annex for Asia) Article 5 (1)	<p>(on subregional and joint action programmes)</p> <p>Pursuant to article 11 of the Convention, affected country Parties in Asia mutually agree to consult and cooperate with other Parties, as appropriate, in order to complement, and increase effectiveness in the implementation of national action programmes. In either case, the relevant parties may jointly agree to entrust subregional, including bilateral or national organizations, or specialized institutions, with responsibilities relating to the preparation, coordination and implementation of programmes. Such organizations or institutions may also act as focal points for the promotion and coordination of actions pursuant to articles 16 to 18 of the Convention. [these are on technical assistance and cooperation, technology transfer and partnership agreements]</p>	Section 18(3) (a)



h. Financial mechanism (GEF) as an area of synergy with the CBD

Sl.No	Relevant section of the UNCCD	Reference	Corresponding linkages to CBD/BD Act
1	Article 21 (2,3,5a) Financial Mechanisms	<p>The CoP shall also encourage the provision, through various mechanisms within the United Nations system and through Multilateral Financial Institutions, of support at the national, subregional and regional levels to activities that enable developing country Parties to meet their obligations under the Convention.</p> <p>Affected developing country Parties shall utilize, and where necessary, establish and/or strengthen, national coordinating mechanisms, integrated in national development programmes, that would ensure the efficient use of all financial resources.</p> <p>5a. (The CoP shall)...identify and draw up an inventory of relevant bilateral and multilateral cooperation programmes that are available to implement the Convention</p>	<p>The Global Environment Facility (GEF) is the designated institutional structure operating the financial mechanism of the CBD; it applies the guidance, including policy, strategy, program priorities, and eligibility criteria relating to access to and use of its resources from the Conference of the Parties.</p> <p>At every ordinary meeting of the Conference of the Parties, the GEF provides a report on its biological diversity activities. The Executive Secretary regularly provides updates on the development of biodiversity issues, under the Convention to the GEF Council. The CBD relationship with the GEF is governed by Memorandum of Understanding between the Conference of the Parties to the Convention on Biological Diversity and the Council of the Global Environment Facility (Decision III/8).</p> <p>On September 2003, the Conference of the Parties accepted the GEF as a financial mechanism of the UNCCD. The funds allocated by the GEF, support activities that address the issue of desertification and deforestation.</p> <p>CBD decision IX/11 recommended the appointing of a Resource Mobilization Focal Point to facilitate the national implementation of a Strategy for Resource Mobilization. Ideally, national focal points of the biodiversity related conventions can cooperate and collaborate on the assessment of the financial needs for the implementation of the conventions. MEA synergies has been prioritised in recent funding cycles as well</p>



III. Discussion on synergy in relation to the NAP and NBAP and direction for possible future work

Policy prescription such as framework documents required to be submitted to Secretariats of International Conventions represent, lend themselves to gap-analysis exercises that can be a useful starting point to gauge the success of synergised implementation of MEAs and to suggest course correction where appropriate.

The 2001 National Action Plan (NAP) to combat desertification that India tabled to the UNCCD can logically be examined as a document that comprehensively captured (though not necessarily initiated) the institutional response across government departments, to drought and dryland management. It is stated to be a comprehensive plan for 20 years¹. This document, prepared in connection to India becoming a signatory to the UNCCD on 14th October 1994 and it coming into effect on 17th March 1997, was prepared through the setting up of a High-Level Inter-Sectorial National Steering Committee in July 1999, as required by the 5th COP. While the document, among other things, comprehensively lists several elements of 'policy speak' (Gasper and Apothrophe, 1996) by Indian government such as the National Water Policy 1987, what was at the time a National Land Use Policy Outline 1988 (which predates the Draft National Land Utilisation Policy of 2013), the National Forest Policy, 1988 and Policy on Drought among others, a critical area of silence is often the allocation of responsibility among institutions and actors that would perform the crucial work envisaged in these visioning exercises, including monitoring and evaluation, to help attain the objectives of these policy proclamations in practice. As scholars of policy discourse point out, policy speak as a proposition or statement is quite different from policy as decision-making that is binding and demonstrable (ibid).

Table 1 below captures the some of the key policy documents listed in the NAP alongside the key statements (ie: their policy speak) included in them that have a cross-cutting bearing on drought and dryland management and agriculture

1 On the question of this being very 'dated', COP8/3 of the UNCCD apparently has asked parties to prepare a New National Action Plan to Combat Desertification (NNAP-CD) in keeping with the 10 year strategy of the UNCCD. MoEFCC reports this to be 'work in progress'. (source: MoEFCC on "UNCCD in India")



Table 1: NAP-derived table of a few key policy documents and their relevant policy-speak

Sl.No	Policy Document	Statement
1	National Water Policy, 1987	Resource planning has to be for a hydrological unit such as a drainage basin as a whole or a sub-basin. Water zoning for use and economic development would be undertaken.
2	-do-	There would be an integrated and multi-disciplinary approach to the planning, formulation and approval and implementation of water related projects, including catchment treatment and management, environmental and ecological aspects, rehabilitation of affected people, and command area development.
3	-do-	Groundwater potential would be assessed and exploited keeping its recharge potential in view.
4	-do-	Water rates would ensure to cover costs of operation and management. Due regard would be given to small and marginal farmers.
5	-do-	Drought-prone areas would have special water conservation measures. The needs of drought-prone areas would be given priority in water resource development projects. Drought proofing methods would be given special attention
6.	National Land Use Policy Outlines, 1988	<ol style="list-style-type: none">1. To meet the consumption needs of a growing population by increasing productivity of the integrated land resource of the country.2. To prevent any further deterioration of land resource by appropriate preventive measure.3. To restore the productivity of degraded land by appropriate package of practices.9. To restructure the livestock production programme in such a manner that the livestock population is gradually limited to economically productive stock and to prevent degradation of grassland by promoting measures of increasing stall feeding to livestock in rural areas.10. To provide for optimum use of land under agriculture by promoting mixed farming systems in which the production programme will include the production of fodder and tree crops also on marginal and submarginal farm land.11. To motivate farmers by organising input supplies and marketing support for encouraging them to cultivate the appropriate crop or fodder or trees in conformity with the land use policy.



When the Central Government articulated its vision for biodiversity in the country, in the light of the CBD and BD Act, the result was the National Biodiversity Action Plan (NBAP). The eleven thematic areas identified have several statements (which the document refers to as action points) listed under each of them. Given the BD Act's provisions in relation to biodiversity conservation and sustainable use, and also with agrobiodiversity, these offer points of contact with managing drought, desertification and land degradation. These are elaborated in Table 2 below.

Table 2: NBAP-derived table of action-points relevant to BD Act synergies with UNCCD

Thematic Area Identified in the Indian NBAP (a selection of those relevant to the focus of this report)	Action point of NBAP : Statements made corresponding to these thematic areas, which have a bearing on land and associated biodiversity	Questions that can be asked of the statements/action points, which offer pointers to gaps/relevant interventions that need to be made
<p>Strengthening and integration of in-situ, on-farm (and ex-situ)* conservation</p> <p>*Omitted as not-relevant</p>	<p>12. reintroduction and establishment of viable populations of threatened plant species</p> <p>17. promote conservation of biodiversity outside the PA network, on private property, on common lands, water bodies and urban areas</p> <p>21. integrate conservation and wise use of wetlands and river basins involving all stakeholders, in particular local communities, to ensure maintenance of hydrological regimes and conservation of biodiversity</p> <p>23. identify hotspots of agro-biodiversity under different agro-ecozones and cropping systems and promote on-farm conservation</p> <p>24. provide economically feasible and socially acceptable incentives such as value addition and direct market access in the face of replacement by other economically remunerative cultivars</p>	<p>All – Do they offer ways to impact mainstream /currently existing contrarian practices in any way? If yes, how and who will make them specific, quantifiable and operational?</p> <p>21- Is this reflective of the ground truths, political economy and power differentials between urban/rural, rich/poor, educated/illiterates, formal/informal sectors and the complex factors that interact to disrupt hydrological regimes, especially of river basins in India?</p> <p>24 – how? Is there an implicit suggestion here that biodiversity conserving practices requires exclusive/niche markets, and if so, does that support the CBD goals in the Indian context?</p>



Thematic Area Identified in the Indian NBAP (a selection of those relevant to the focus of this report)	Action point of NBAP : Statements made corresponding to these thematic areas, which have a bearing on land and associated biodiversity	Questions that can be asked of the statements/action points, which offer pointers to gaps/relevant interventions that need to be made
Augmentation of natural resource base and its sustainable utilisation: ensuring inter-and intra-generational equity	<p>39. secure integration of biodiversity concerns into inter-sectoral and inter-sectoral policies and programmes to identify elements having adverse impacts on biodiversity and design policy guidelines to address such issues. Make valuation of biodiversity an integral part of pre-appraisal of projects and programmes to minimize adverse impacts on biodiversity</p> <p>40. promote decentralised management of biological resources with emphasis on community participation</p> <p>41. promote sustainable use of biodiversity in sectors such as agriculture, animal husbandry, diary development, fisheries, apiculture, sericulture, forestry and industry</p> <p>43. promote best practices based on traditional sustainable uses of biodiversity and devise mechanisms for providing benefits to local communities.</p>	<p>39, 40- Have responsible actors executed/ catalysed these actions through concrete suggestions/ handholding/ partnering post the NBAP? Or leveraged the case for it through appropriate channels and forums?</p> <p>43 & 45 – Are they not saying the same things in different ways?</p> <p>47 –Should there also be corresponding transformative and accountability-enforcing capacity-building of hierarchical and bureaucratic governance structures so that due regard is accorded to such decisions taken at the grassroots in participatory ways?</p> <p>49 – When such evidence is shared through research (such as by Sujith.K Nath et al, to cite just one example²)</p>

² Sujith K Nath et al (2016) discuss the integrated farming system (IFS) as a judicious combination of several farm-based activities that allows for improved natural resource management. Recycling of residue waste in small landholdings enables farmers to integrate and manage a range of options such as livestock, poultry, fishery, duckery, mushroom production, apiculture, sericulture alongside farming. As a result of this, the conventional objective of increasing output of key produce is met, and so also is the less conventional objective of ensuring that biomass production per unit area is increased by recycling wastes and by-products into the soil. They make the case for how diversification of production, poverty reduction, development as well as food security can go hand-in-hand, but at a price, which is the higher initial investment required for such diversified farming by marginal and small land holders. The benefit cost ratio of the cases they cite of two small farmers in two predominantly rainfed states indicate that the benefits are higher for the IFS system, even when only conventional benefits of better farm incomes are taken into account. This is where integrating ecological economics into the work of the Ministry of Agriculture per se, can mobilise more policy support for systems like IFS (and particularly to finance the higher input costs), as much as past and continuing considerations have for large scale monocultures. Rainfed ecosystems in India not only form the bigger net surface of total cultivated area but also are the habitat for 40% of human and 60% of livestock population (ibid). As both people and the planet are at the core of all the Rio Conventions, the scope to better the lives of the rural poor, and ensure that they get tangible and equitable benefits from natural resource stewardship, is fore-grounded in such a strategy to address management of rainfed drylands. Valuation of biodiversity and ecosystem benefits is what will break the current silence and invisibility surrounding them in key and mainstream sectors like agriculture, and impact ‘business as usual’ scenarios.



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	<p>45. promote sustainable use of biological resources by supporting studies on traditional utilisation of natural resources in selected areas to identify incentives and disincentives, and promote best practices</p> <p>47. promote capacity building at grassroot level for participatory decision-making to ensure eco-friendly and sustainable use of natural resources</p> <p>49. encourage adoption of science-based, and traditional sustainable land use practices, through research and development, extension of knowledge, pilot scale demonstrations, and large scale dissemination including farmer's training, and where necessary, access to institutional finance.</p> <p>52. encourage agro-forestry, organic farming, environmentally sustainable cropping patterns and adoption of efficient irrigation techniques</p>	<p>how and who is in charge of providing the encouragement? The NBAP was cabinet-approved in 2008 and as of 2016, do efforts in line with the recommendation get documented and scaled up?</p> <p>52 – Are these economically and ecologically viable in degraded soils and ecosystems? Where can they be viably applied?</p> <p>All- These action points are more prescriptive and general – at the level of what ought to be done – but not indicative of where, when, by whom and how. As such, there is a lot of action-potential in them, but very little self-evident action. How will these gaps be bridged?</p>



Thematic Area Identified in the Indian NBAP (a selection of those relevant to the focus of this report)	Action point of NBAP : Statements made corresponding to these thematic areas, which have a bearing on land and associated biodiversity	Questions that can be asked of the statements/action points, which offer pointers to gaps/relevant interventions that need to be made
Integration of biodiversity concerns in economic and social development	<p>85. Integrate biodiversity concerns across development sectors</p> <p>87. Take steps to adopt and institutionalise techniques for environmental assessment of sectoral policies and programmes to address any potential adverse impacts and enhance potential favourable impacts</p> <p>95. Give due considerations to the quality and productivity of lands which are proposed to be converted for development activities, as part of the environmental clearance process</p>	All- These action points are more prescriptive and general – at the level of what ought to be done – but not indicative of where, when, by whom and how. As such, there is a lot of action-potential in them, but very little self-evident action. How will these gaps be bridged?
Pollution impacts	<p>110. avoid excessive use of fertilisers, pesticides and insecticides while encouraging integrated pest management practices, and use of organics manures and biofertilisers.</p> <p>111. promote organic farming of locally adapted and traditional crop varieties through appropriate incentives, and direct access to markets duly supported by credible certification systems.</p>	<p>This is reportedly being done by the DoA according to the Agricultural Ministry Annual reports –is there monitoring and reporting on the same as well? How can such meaningful information effectively and efficiently be integrated into MEA reporting?</p> <p>Is there an implicit suggestion here that organically farmed produce requires exclusive/ niche markets, and is it okay to promote it in contrast to meeting production affordable for the masses? If so, does it meet CBD goals in the Indian context?</p>



Thematic Area Identified in the Indian NBAP (a selection of those relevant to the focus of this report)	Action point of NBAP : Statements made corresponding to these thematic areas, which have a bearing on land and associated biodiversity	Questions that can be asked of the statements/action points, which offer pointers to gaps/relevant interventions that need to be made
Strengthening implementation of policy, legislative and administrative measures for biodiversity conservation and management	<p>125. accelerate effective actions at the central, state and local level to implement provisions under the Biological Diversity Act.</p> <p>126. Review enabling policies to prevent transfer of prime agricultural land to non-agricultural purposes and promote sustainability of agricultural lands.</p>	All- These action points are more prescriptive and general – at the level of what ought to be done – but not indicative of where, when, by whom and how. As such, there is a lot of action-potential in them, but very little self-evident action. How will these gaps be bridged?
Valuation of good and services provided by biodiversity and use of economic instruments in decision making processes.	<p>166. Develop suitable valuation models for adoption at national, state and local levels.</p> <p>167. Support projects and pilot studies aimed at validating methods of valuation of bioresources.</p> <p>169. Assess the utility of traditional and innovative fiscal instruments for promoting conservation and sustainable utilisation of biodiversity.</p>	-do-
International cooperation	Develop projects for accessing funds for conservation and sustainable use of biodiversity from external sources, earmarked for conservation through bilateral, regional and other multilateral channels.	-do-



Many of the concepts and terminologies that are key to Ecosystem Restoration and a plethora of Missions and Schemes which integrate these foci, in principle, are often listed in MEA-COP reporting exercises. However, a simple enumeration or description of the approaches that can or may be used, in this manner, often lacks clear linkages being made to what will change/has changed in practice, as a result. Specifically, that these changes be of a scale that matches the enormity of the challenges, and that their impact be significantly dramatic to contribute to development that is demonstrably sustainable, are matters that can no longer be left to statements that capture the trending jargon, but need also to be backed by facts and figures.

An important gap to address in strengthening MEA synergies would be identifying key institutions and ways and means to mine the data that would quantify and impart substance to each statement of the policy-speak in those parts of documents like NAP and NBAP that provide for synergies. Both the NBA and the Central Government, as per the provisions of the BD Act analysed here, are actors who can initiate this process. This is the only recommendation and outcome of this exercise.

Sri R. S Rana, Chairman, NBA Expert Committee on Agrobiodiversity, while appreciating the analysis in this report and recommending its acceptance as a reviewer, also commented on the abrupt conclusion in the above paragraph and made the case for analysis of the underlying problem and suggesting ways to overcome it. His input towards this end is appreciated and noteworthy and reproduced in full below:

The problem appears to arise from a paradoxical situation prevailing in the Central Government. To begin with, the Union Ministry of Environment, Forest & Climate Change (MoEF&CC) is the nodal ministry for implementing the CBD as well as the UNCCD. Whereas the major impact of desertification processes, land degradation and drought is borne by the agriculture sector, which is under the Union Ministry of Agriculture & Farmers' Welfare, the nodal implementing Ministry for these two Conventions (MoEF&CC) does not have the capability, infrastructure and effective linkages at the ground level to deal with the challenges of desertification and land degradation, faced by the farmers engaged in rain-fed farming. Under this situation, the nodal ministry tries to pass on the responsibility for implementing the key provisions of the UNCCD to the Agriculture Ministry but without delegating the required authority and fund allocation. This leads to diffused responsibility, little accountability and slow pace of implementation.

A similar situation prevails in conservation of agricultural biodiversity, primarily contained in cultivated plants and domesticated animals which are owned by farmers and pastoral herdsmen who, in turn, are part of the agriculture sector. Protection of traditional knowledge associated with the breeds, developed and conserved by local communities and documented by them in their People's Biodiversity Registers, presents yet another situation of this type. Whereas conservation of biodiversity and protection of traditional knowledge associated with bioresources are mandates of the NBA and its parental ministry (MoEF&CC)



under the Biological Diversity Act, it is the Ministry of Agriculture & Farmers' Welfare that conserves (both ex situ and in situ systems) and manages the genetic resources of crop plants and farm animals, including agriculturally important insects and microbes. Like the MoEF&CC, the NBA also does not have the capability, infrastructure and effective linkages with farming and pastoral communities to conserve and manage this component of biological diversity. The Biological Diversity Act, however, defines both ex situ and in situ conservation of domesticated bioresources and provides for constituting an Expert Committee on Agrobiodiversity to make recommendations to the NBA on issues related to this important component of biodiversity, identified and conserved through use by the farming communities over the millennia through successive generations.

A promising solution of the problem, identified by the present Study Report, lies in developing and operating a workable administrative mechanism for effective coordination between these two key Union Ministries, concerned with implementing these Conventions and also for adopting the Expert Committee on Agrobiodiversity's recommendations subject to their approval by the NBA.



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About CEBPOL

Government of India in collaboration with the Norwegian Government has established "Centre for Biodiversity Policy and Law (CEBPOL)" at the National Biodiversity Authority (NBA), an autonomous and statutory body of the Ministry of Environment Forest and Climate Change towards strengthening of expertise in Biodiversity Policy and Law in India. This programme is executed by the NBA in collaboration with Norwegian Environment Agency through the Royal Norwegian Embassy, New Delhi, India.

The Centre aims to provide advice and support to the Government of India and Norway on Biodiversity Policy and Law related issues including complex negotiations on Access and Benefit Sharing and Traditional knowledge as well as governance issues relating to biodiversity at the National and International level. The Centre proposes to help NBA in the effective implementation of International agreements on conservation, sustainable use and the associated access and benefit sharing components of it.

CEBPOL is set up as a specialized Centre of Excellence in Biodiversity Policy and Law to network, organize and consolidate expertise on issues of Biodiversity Policy and Law in India and Norway. The Centre, located at NBA, would function as an independent think tank on Biodiversity Policy and Law. In addition, CEBPOL aims to contribute to the effective implementation of the Biological Diversity Act 2002 and Rules 2004.

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