

## Requirements of an international legal framework on nature based tourism

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### Abstract

Nature based tourism (NBT) as an effective instrument for sustainable use of biodiversity is an interesting issue to be studied in order to evaluate response the of international community to the interaction between developmental and environmental pillars of sustainable development. Various international endeavours have been carried out with considerable outcomes to address NBT in different forms and manifestations. As a result, the international community has attained many successful achievements and valuable experiences. There is an urgent need for an internationally accepted instrument to address the existing gaps and overlaps appropriately. Such an instrument should respond to lack of adequate environmental and developmental rules and regulations at international scale. Careful study of major international environmental and developmental achievements related to NBT could provide the international community with an appropriate legal framework to address such an environmentally fragile, economically viable, and a culturally sensitive issue.

**Key words:** *Nature Based Tourism (NBT), sustainable development, environmental law, legal instrument, UNEP, Commission on Sustainable Development (CSD), Agenda 21*

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### Introduction

Nature based tourism (NBT), as a new phenomenon in the relationship between environment and development, has potential adverse effects if it is not properly planned and implemented. However well planned NBT could whilst it is recognised as an be highly instrumental in conservation and sustainable use of the biodiversity. To this end phenomenon, the main endeavours of international environmental and developmental instruments should be reviewed. This review should focus on the post Rio activities and policymaking of these instruments in order to understand their approaches, main achievements, gaps and overlaps, and to evaluate their contribution in regulating nature based tourism activities. On one hand NBT has its roots, in the tourism industry with more than 11% contribution to the world's GDP as one of the most appropriate means of generating income and employment in many developing countries while providing nearly 8% of the total global workforce, (one in sixteen jobs and 7 per cent of capital investment) (WTO/OMT, 1998), (Shackleford, 1995). NBT is an important component of the worldwide international and domestic tourism industry, which has been expanding rapidly over the past two decades, and further growth is expected in the future. Overall, depending on the region, nature and wildlife tourism accounts for 20 to 40 percent of

international tourism (Giorgio, 1993). The scale of this kind of tourism is even larger if domestic tourism is taken into consideration. On the other hand its roots are in the conservation and sustainable use of environmental features including its biodiversity and aesthetic values. Therefore, NBT is a major issue on the interaction of developmental and environmental issues. It should be properly governed to maximize its benefit to local communities and minimize its adverse effects on nature.

Although tourism was not in the agenda of Earth Summit in Rio 1992, the Commission on Sustainable Development, (CSD) as the UN body responsible for the implementation of Agenda 21 in its seventh session in 1999 and based on the final outcome of Rio+5, made a landmark decision to establish an international work programme on sustainable tourism. The decision 7/3 opened up a new political space at the international and national levels to bring tourism development in line with the commitments undertaken in Rio.

In the 2002 World Summit on Sustainable Development (WSSD), the achievements of the so-called Rio Process were evaluated and new strategies planned. Such strategies were needed given the failure of the international community to implement most of the promises and hopes of Rio, not least in tourism, which in recent years has become one of the world's

leading industries. The WSSD offered an opportunity for a re-oriented tourism to be integrated into the strategies for sustainable development. This re-orientation of the tourism industry towards environmentally and socially responsible behaviours and leisure activities, is needed for sustainable development, but it faces many challenges.

One of major challenges in the re-orientation era of NBT is the lack of a comprehensive, integrative and cross-sectoral policy making framework for a new approach of tourism. Such an approach needs a coherent, responsible and equitable cooperation among all stakeholders, including local communities, indigenous peoples, political and/or local authorities, the tourism industry, tourists and civil society. Benefiting from the outcome of two major international summits in 2002, the Quebec Summit on International Year of Ecotourism and WSSD, this paper tries to find out the appropriate way to address NBT by introducing basic legal forms to regulate and coordinate as far as possible the international behaviour on NBT.

### **Methodology**

The methodology used in this research is based on international archival research, containing detailed analysis of international documents on instruments and organisations for development such as the CSD and UNCTAD as well as international environmental agreements and instruments UNEP, the Convention on Biological Diversity (CBD) and some relevant international, regional, intergovernmental, or UN specialised agencies like World Tourism Organisation (WTO/OMT), and European Commission. Moreover the outcome of major UN conferences and relevant international agreements has been studied. Archival research has been complemented by data gathering, reviewing the most recent and successful experience of relevant international organisations and the collection of information pertaining to NBT. From legal point of view, major principle in international law, particularly environmental law, has been studied. More than 55 principles and rules of international law reflected in treaties, binding acts of international organisations, state practices, and soft law commitments has been gathered and made contribution to compile final suggestion.

### **Definition of NBT**

The definition of tourism was proposed by the WTO in 1991 and officially adopted by the United Nations Statistical Commission in 1993. It states that "Tourism comprises the activities of persons travelling to and staying in places outside their usual

environment for not more than one consecutive year for leisure, business and other purposes" (Holden, 2000).

Many academicians in 90s emphasized the behavioural and impact aspects of tourism. As an example, Bull defined tourism as a human activity, which encompasses human behaviour, use of resources, and interaction with other people, economies and environments (Bull, 1991).

The concept of sustainable tourism was introduced in the late 1980s. It was the tourism industry's reaction to the Brundtland Report on our common future as an outcome of World Commission on Environment and Development (WCED) in 1987 (Brundtland website, 1987). Having in mind the notion of sustainability in WCED, sustainable tourism development can be defined as tourism that meets the need of the current generations without compromising the ability of future generations to meet their needs (Weaver, 2001).

The definition of NBT differs from specialised tourism components such as ecotourism or adventure tourism (Whelan, 1991), (Boo, 1990) due to the activities involving the direct use of a destination's natural resources as either a setting or an attraction (Ceballos-Lascurian, 1997), (Fennell, 1999), (Goodwin, 1996).

Weaver and Lawton (2001) defined nature-based tourism as a form of tourism that maintain a dependent, enhance or incidental relationship with the natural environment, or some aspect thereof, in terms of its utilization of attractions and/or setting. It includes the 3S tourism (sea, sand and sun), adventure tourism, ecotourism, consumptive tourism, captive and health tourism as various forms of nature-based tourism. (Table 1).

As far as this paper concerns, NBT's main characteristics are; a) community based tourism, b) non-consumptive form of tourism, c) low impacts on the environment and culture of the destination, d) compatibility with the carrying capacity and economic factors of destinations, e) designed to fulfil visitors' desires, f) implemented in a learning environment.

Therefore, NBT means any form of sustainable nature and community-based, non-consumptive, low environmental and cultural impact tourism according to the carrying capacity and economic generation of the destination, which fulfils the wishes and aspirations of all kinds of visitors in a learning environment.

## Literature Review

Agenda 21 did not pay direct attention to sustainable tourism development as one of the leading industries. It is because of the novelty of such an industry and the traditional procedures of UN developmental bodies, which normally need sufficient time to consider a new and emerging phenomenon in their agenda of work. As a result of such circumstances, sustainable tourism development was ignored on the working agenda of the international community and thus the appropriate action on this important issue, in which all three pillars of sustainable development are involved, was postponed. The CSD as a UN body responsible for the follow up of Agenda 21 addressed sustainable nature based tourism, first in the framework of sustainable development of Small Islands Developing States and then in the context of the working programme of its Seventh Session in 1999.

A couple of years back, the environmental instruments of international community, particularly UNEP, recognized the importance of issues and tried to address such need. One of the institutional initiatives of UNEP regarding sustainable (nature based) tourism is the UNEP Draft Principle on Sustainable Tourism, which was initiated in 1995 and after a series of negotiations presented to the CSD7. With its approval the final draft was published in early 2000. The main intention of the UNEP principle is to provide a framework on which

international environmental agreements related to tourism can further develop their work programmes. The time of launching the UNEP initiative coincided with CSD7 and the adoption of decision 7/3. The content of the principle, as an international reference document, demonstrates its own capacity to deal with NBT. The principle approach is towards environmental considerations in contrast with decision 7/3 and may be regarded as an environmental approach to tackle nature-based tourism.

One of the innovations of the UNEP principle on sustainable tourism is formatting of the titles and categorising issues in a useful and concrete manner. It contains four main groups of subjects and each one examines related sub-titles.

However, in the developmental institutions, CSD7 approved the landmark decision of sustainable tourism in its decision 7/3 in February 1999 (CSD website, 1999).

Despite many achievements, decision 7/3 fails to address several important issues related to sustainable tourism in general and NBT in particular. The main conceptual shortcomings of decision 7/3 include the lack of a comprehensive clarification of the rights and obligations of the major stockholders, the lack of a comprehensive provision on policy and planning including integrated planning, and environmental and development policies. Other major shortcomings of decision 7/3 are the lack of

Table 1: The outstanding achievements of the NBT through decision 7/3

Categories	Issues	Descriptions
First category	Concepts	This category mainly focused on definition
Second category	Strategy setting and policymaking	This category includes the creation of a framework and instruments, the drafting and implementing of a master plan, locally integrated planning approaches, and design with nature in mind
Third category	Socio-cultural Issues	This category includes consultation with major groups and local communities, educational initiatives and responsible tourism behaviour, tourism information awareness, sexual exploitation, in-flight education videos, and art and music
Fourth category	Economic Issues	This category includes the eradication of poverty, and small and medium size enterprise issues
Fifth category	Environmental Issues	This category includes voluntary initiatives, eco-efficiency, waste reduction and management, the development of indicators, and coastal zone fragility
Sixth category	Procedural Issues	This category includes capacity building, the dissemination of information, the exchange of information on services, the research and study on needed areas, and the establishment of global networks
Seventh category	Institutional Issues	This category includes international cooperation, an ad-hoc informal open-ended working group on tourism, the implementation and enforcement of standards and guidelines related to tourism, the development of guiding principles for sustainable tourism development, international guidelines on tourism activity in sensitive areas, and a supporting Global Code of Ethics for tourism

tools and policies for implementation and coordination mechanisms such as EIAs, monitoring and reporting procedures, carrying capacity issues, CHM, and ESTs.

The main procedural shortcoming of the CSD on sustainable tourism development as well as NBT is the lack of adequate follow-up. Procedure although the CSD7 on several occasions refers to its next sessions for considering reports on the progress and implementation of specific parts of decision 7/3, none of the post-CSD7 sessions consider tourism substantially. Although decision 7/3 has not been followed up adequately by other relevant organisations, it has shown the need for the international community to address procedural setting and the legal framework on which sustainable tourism development and particularly NBT are to be based. At the same times, the UN General Assembly for reviewing of the implementation progress of Agenda 21, in its special session (Rio+5) tried to deal with Sustainable tourism and for the first time addressed the issue at a summit level very briefly. NBT was recognized as an issue which needs to be addressed by relevant international forums including WSSD. Thereafter in 2002, WSSD considered sustainable tourism development amongst the issues interlinked with the protection of the environment, poverty alleviation and social concerns of the local community. Chapter 41 of the Plan of Implementation refers to promoting sustainable tourism development, including non-consumptive and NBT/ecotourism, as a means to increase the benefits of tourism resources for the population in host communities while maintaining the cultural and environmental integrity of those communities and enhancing the protection of ecologically sensitive areas and the natural heritage. This Chapter also proposed a plan of action for sustainable tourism development (WSSD website, 2002).

The most direct actions recommended by chapter 41 are to “develop programmes, including education and training programmes, that encourage people to participate in eco-tourism, enable indigenous and local communities to develop and benefit from eco-tourism, and enhance stakeholder cooperation in tourism development and heritage preservation, in order to improve the protection of the environment, natural resources and cultural heritage”.

This chapter 41 made references to two recent achievements at the international level to formulate the international activities towards sustainable

tourism development; the Quebec Declaration and the Global Code of Ethics for Tourism. The Quebec Declaration on Ecotourism is the result of three consecutive years of preparatory programmes with 18 preparatory meetings at the international level before and during the International Year of Ecotourism in 2002. The Declaration is the outcome of a multi-stakeholder dialogue, although it is not a negotiated document. As stated in the preamble of the Declaration, its main purpose is the formation of a preliminary agenda and a set of recommendations for the development of ecotourism activities in the context of sustainable development (WTO/OMT website, 2002). The Declaration produced 49 recommendations to governments, the private sector, non-governmental organisations, community-based associations, academic and research institutions, intergovernmental organisations, international financial institutions, development assistance agencies, and indigenous and local communities as well as WSSD. Another reference guideline of Chapter 41 of plan of implementation of WSSD on sustainable nature based tourism is the Global Code of Ethics for tourism (WTO/OMT website 1, 2000). The Code is the result of a follow up to the 1997 WTO General Assembly resolution in Istanbul. After two years of consecutive and extensive consultation, the WTO General Assembly meeting in Santiago in October 1999 approved the Code unanimously. The Articles of the Code outline the “rules of the game” for destinations, governments, tour operators, developers, travel agents, workers and travellers themselves. As Francesco Frangialli, Secretary General of the WTO pointed out (WTO/OMT website 2, 2000), the Code sets a frame of reference for the responsible and sustainable development of world tourism at the dawn of the new millennium.

#### **Needs and Characteristics of international instrument on NBT**

As it is obvious, the main challenge facing international community is to move from the existing ad hoc approaches, to an instrument that can integrate the current social, economic and environmental programmes, funds and initiatives, and evolve new patterns for management of NBT in a more systematic and dynamic way.

The main arguments behind the need for such an instrument are:

1. to provide the legal framework to support the integration of the various aspects of sustainable use of natural resources and biodiversity related to NBT,

2. to propose an agreed single set of basic principles which may guide States, the tourism industry, local communities, intergovernmental organizations, civil society and individual tourists,
  3. to assist the consolidation of various sectoral approaches and codes into a single legal framework,
  4. to facilitate institutional and other linkages between existing internationally accepted codes of conduct and related international organizations,
  5. to fill in the gaps in international law, by placing principles on NBT in a global context,
  6. and to draft a universal basis for NBT upon which future lawmaking efforts might be developed.
- Main characteristics of international instrument on NBT lay out below.

### Discussion

Having above facts in mind, to provide an internationally accepted legally binding instrument for governing international behaviour on NBT, there is a need to explore and explain legal bases as well as main innovations of such instrument. Both issues will be discussed in this part, namely; a) Legal bases of international instrument on NBT and, b) Required innovations.

#### 1. Legal bases of international instrument on NBT

The proposed instrument should build on principles and concepts that have already been developed through the relevant principles of international environmental law and principles of international law relevant to developmental issues and tourism as well as international practice processes. It should also focus on practical guidance to facilitate its implementation, and linkages between sustainable economical developments and the protection and conservation of environmental and cultural heritage by sustainable nature based tourism. Sands (1995) believes that the general principles and rules of international environmental law reflected in the treaties, binding acts of international organisations,

and state practices are potentially applicable to all members of the international community across the range of their activities in respect to the protection of all aspects of the environment. Most general rules and principles have broad support and are frequently endorsed in practice. they include the following: the principle of the state sovereignty over its natural resources and the responsibility not to harm or cause damage to the environment of other states; the principles of preventive action and good neighbourliness and international cooperation; the precautionary principle; the polluter pays at principle; the principles of common but differentiated responsibility and human rights; and the principle of sustainable development comprised of inter-generation, intra-generation, integration of environment and development and the sustainable use of natural resources.

Boyles and Birnie (2002) believe that sustainable development, as reflected in the outcomes of the Rio Summit, contains both substantive and procedural elements. The substantive ones are mainly the sustainable use of natural resources, the integration of environmental protection into the economic development, the right to development, intra- and inter- generation equality, and polluter pays principle. These are reflected in Principles 3 to 8 and 16 of the Rio Declaration. The procedural principles include public participation in decision-making, EIAs, and access to information. These are reflected in Principles 10 and 17 of the Rio Declaration.

All relevant principles declared by 1992 Rio Declaration and the 1972 Stockholm Declaration as well as main legal principles used by the 2000 IUCN Draft Covenant on Environment and Development should be employed. To compile a draft of international instrument on NBT. The IUCN Draft Covenant on Environment and development is a recent endeavour of the international community to harmonise environmental and developmental issues.

Table 2: Main characteristics of international instrument on NBT

(a)	Conservation of ecosystem structure and functioning
(b)	Sustainable tourism in ecosystems conserving their structure and functioning
(c)	Fair and equitable sharing of benefits
(d)	Information sharing and dissemination of best practices and experiences
(e)	Restoration of past damage
(f)	Technical assistance and Capacity building
(g)	Enhancement of global and regional coordination
(h)	Governing international behaviour and approach on nature based tourism
(i)	Fair distribution of international funds available on the issue
(g)	Priority setting for state members

Table 3: Main principles on international developmental and environmental law relevant to NBT

Accepted principles on international law	References in main international instruments
Principle of preventive action	Principles 11 and 14 of the Rio Declaration and 6, 7, 15, 18, and 24 of the Stockholm Declaration and Articles 6, 12.2 and 23 of IUCN Draft Covenant
Principle of good neighbourliness and mutual cooperation	Principles 19 and 27 of the Rio Declaration and 24 of the Stockholm Declaration
Principle of inter-generation and intra-generation equality	Principles 3 of the Rio Declaration and 1 of the Stockholm Declaration and Article 5 of IUCN Draft Covenant
Principle of common but differentiated responsibility	Principles 7 of the Rio Declaration and 23 of the Stockholm Declaration and Article 3 of IUCN Draft Covenant
Principle of integration of development and environment	Principles 4 of the Rio Declaration and 13 and 14 of the Stockholm Declaration and Article 5 of IUCN Draft Covenant
The precautionary principle	Principle 15 of the Rio Declaration
Principle of human rights	Principles 1, 3, and 10 of the Rio Declaration and 1 of the Stockholm Declaration and Article 12.1 of IUCN draft Covenant
Principle of the right to development	Principle 3 of the Rio Declaration and Article 8 of IUCN Draft Covenant
Principle of poverty alleviation and equitable benefit sharing	Principles 5, 8, and 12 of the Rio Declaration and Article 9 and 13.1 of IUCN Draft Covenant
Principle of carrying capacity	Principle 9 of the Rio Declaration
Participatory principle	Principles 10, 20, 21, and 22 of the Rio Declaration and Article 7 of IUCN Draft Covenant
Principle of sustainable production and consumption patterns	Principle 8 of the Rio Declaration
Principle of environmental impact assessment	Principle 17 of the Rio Declaration
Principle of the use of environmentally sound technology	Principles 7 and 9 of the Rio Declaration
Principle of sovereignty over natural resources	Articles 11.1, 11.2, and 15.1 of IUCN Draft Covenant
Polluter pays principle	Article 11.6 of IUCN Draft Covenant
Principle of sustainable use of natural resources	Articles 1.3, 12.6, 17, 18, 19, and 34 of IUCN Draft Covenant
Principle of conservation and the sustainable use of biodiversity	Articles 2, 21.1, 21.2, and 30.2 of IUCN Draft Covenant
Principle of careful activity in sensitive and protected areas	Articles 20.1, 20.2 and 52 bis of IUCN Draft Covenant
Principle of waste disposal and waste management	Articles 14, 15.2, 24, and 25 of IUCN Draft Covenant
Principles of spatial planning and the aesthetic value of nature	Articles 21.1, 22, and 34 of IUCN Draft Covenant
Principle of integrated sustainable NBT planning	Article 13.2 of IUCN Draft Covenant
Principle of the need for suitable indicators and standards	Article 38 of IUCN Draft Covenant
Principle of environmental awareness and education	Articles 12.3, and 44 of IUCN Draft Covenant

It is not a negotiating text although it is the result of the work of international experts and academics based on international environmental law and other relevant international law.

The following principles of international developmental and environmental law should be used in the drafting of an international covenant on NBT.

The basic legal arguments used by the relevant international conferences, meetings, and workshops relevant to nature based tourism on drafting or setting out final outcomes, agreements, codes of conduct or guidelines should also be taken into consideration. Some of the well established principles used to compile tourism's international legal instruments are;

the principle of the right to rest and leisure, and the principles of tourism safety and of equal access and non-discrimination in the Tourism Bill of Rights and the Tourist Code, the principles of common natural heritage and the preservation of cultural identity in the 1972 WHC, the principle of cultural heritage and landscape and the principle of spatial planning in the 2000 European Landscape Convention. The principles of integrated sustainable nature based tourism planning, destination management, committed tourism industry, carrying capacity, and tourist safety are all included in the 1999 WTO Global Code of Ethics. While the 1992 CBD sets out the principles for obligatory restoration of disturbed ecosystems, incentive measures and voluntary initiatives, the development of suitable indicators, and the restrained development of fragile ecosystems.

#### **Required innovations**

Almost all of the above mentioned principles made a significant contribution to the drafting of various environmental or developmental international instruments. They are the basis of international forums on negotiation and either form new instruments or amend existing ones. They also could provide a very useful input to the rule making and procedures for NBT. On the other hand and as a result of reviewing and analysis of existing international instruments concerning NBT, could deduced that, there is a need to design innovative mechanism to deal with particular shortcomings or resolve problems or provide with updated ideas and instruments to achieve the sustainable development objectives related to NBT. Based on this study, some of the notable innovations that should be taken into account on the drafting NBT instrument such as international Covenant are suggested as follows:

1. The establishment of Nature Based Tourism Areas (NBTA).

The main attractions of NBT can be found in the rich, beautiful and most environmentally and socio-culturally sensitive areas. These areas normally include national parks and reserves, protected areas in the land and seas which contain outstanding environmental, social, cultural, historic, scientific, aesthetic, and wilderness values. Having in mind that NBT and the environmental quality of the sites have a permanent interaction, the preservation and conservation of these areas have a high priority in NBT agenda. One of the important innovations of the proposed covenant is the establishment of Nature Based Tourism Areas. The NBTA should be

created using specific criteria. There should be a national system of NBTA and the management should be based on an ecosystem approach. The NBT activities in these areas should be conditional and restricted. The establishment of geographical areas for particular use was employed only in the 1972 World Heritage Convention and the 1991 PEPAT of the Antarctic Treaty.

2. Multi-stakeholders' involvement in all NBT activities by establishing a National Multi-stakeholders Body (NMB).

The active participation of the all stakeholders in NBT should be addressed as one of the main shortcomings of the existing international instruments. Such participation will guarantee the achievement of the social development objectives, protection of environmental assets and preserve cultural values. In addition, it will provide for the equitable distribution of benefits in the NBT destination. To achieve such a goal, the proposed covenant should come up with the new idea of establishing NMB as a participative planning mechanism. This mechanism should guarantee the maximum possible participation of the local community, tourism industry, government authorities, vulnerable groups, scientists and academics in NBT activities. The NMB should provide transparency, accountability and participatory factors at all levels of rule setting, decision making, implementation, management, EIAs, monitoring and reporting processes. By using NMB, every single social sector has its voice in the NBT process. This will provide it with an environment to secure its interests and to lead NBT activities towards a more balanced approach. The NMB will also increase the responsibility of all stakeholders.

3. Establishing an International Multi-stakeholder Body (IMB).

The NMB is an instrument to working at national level. There is a need to provide major stakeholders with an international forum to express their views and influence and shape the decision-making process at international level. The international forums are normally the place to coordinate governments' positions. There are quite a few international organisations where major stakeholders have a voice. The ILO is well established and the oldest one in which government representatives, the trade union representatives, and the representatives of labour union are active in the decision making process. To a certain extent there is an immense gap within international environmental and

developmental instruments regarding the involvement of major stakeholders in the decision-making process. Therefore, the proposed covenant should envisage a coordinated policy approach in the form of a consultative body within new instrument.

4. Providing the local community with major roles in NBT activities.

One of the main objectives of the proposed covenant should be facilitating and enhancing the participation of local communities and indigenous people in and around NBT areas. It should provide a suitable mechanism to serve the other objectives of the proposed covenant including the protection and sustainable use of NBT areas, the preservation of cultural and social values in the destination, the equitable distribution of benefits, and generally contribute to the sustainability of the NBT areas. It should identify the rights and obligations of the local community and define the responsibilities of the government in respect of the local community. The right of the local community to participate in all NBT process should be expressed. By using the NMB, the local community empowers to participate in high level decision-making, rule setting, implementation and management of any NBT development. The proposed covenant should also provide them with the right to oversee the tourism industry regarding requesting the state members to ensure the local community's representation on the responsible national bodies.

5. Tourism industry involvements, its rights and obligations.

The tourism industry has an important role in this economic sector. In some countries with an advanced tourism sector, the industry has a decisive role compared with the national authorities. One of the innovations of the proposed covenant should prepare the ground for more meaningful involvement and responsibility of the industry in decision making and norm setting as well as the implementation and management of NBT by identification of its rights and obligations. It should provide the tourism industry with an environment to hear and be heard, to deal with the concern of other major stakeholders and to resolve its problems through an international instrument. By this involvement the cooperation between all stakeholders and the harmony in the development and management of NBT will improve.

6. Proposing EIA procedures.

For almost three decades the international community and individual countries, particularly developed ones, have tried to formulate

Environmental Impact Assessment procedures. Before the 1992 Rio summit, the 1982 World Charter for Nature in its Para 11 and the 1982 UNCLOS in Article 206 address the issue to some degree, while the United States in the 1969 NEPA tried to sort out a set of regulations for IEAs. It was addressed by principle 17 of the Rio Declaration and hereafter the international community had a more integrated approach towards IEA procedures (Boyle & Birnie, 2002). The proposed covenant should make a series of innovations on the implementation and management of the IEA process within the tourism industry. It should categorise NBT areas as marine or land areas. For both of them, the employment of prior EIA procedures at the commencement of any new development or activity should be obligatory in order to determine whether or not the impacts are minor or transitory. This procedure should assess the likelihood of any significant adverse impact on the buffer zones. The proposed covenant should also identify the character and functional factors of EIAs. The activity may proceed forthwith if classified as having less than a minor or transitory impact. Otherwise, an Initial Environmental Evaluation shall be prepared to recognise if the activity has more than a minor or transitory impact. In this case there is a cumulative impact and alternative proposals should be introduced. If the Initial Environmental Evaluation procedures find that the proposed activity has no more than a minor transitory impact, the activity may proceed under proper monitoring. Otherwise, a comprehensive EIA shall be employed. The proposed covenant shall describe the technical aspects of the process. If the implementation of the proposed activity is approved, it should be carried out under regular and verifiable monitoring using key environmental indicators. To assist the implementation of the above EIA procedures, the proposed covenant could suggest the designation of responsible national authorities to control the national aspects of the implementation of the EIA.

7. Introducing a compensation mechanism;

In the case of significant harm to the natural resources of NBT areas, the Covenant should propose a system of compensation to re-establish the situation by providing a remedy for the incurred damages. It includes rehabilitation and restoration measures, research and capacity building and contribution to the socio-cultural development of the damaged site. This process should be monitored by relevant international organisations and if the harm is serious the perpetrator should be punished by

establishing sanctions and implement fines, confiscation, suspension and any other measures. The proposed covenant should also provide its members with a system of compensation for the shared NBT areas or deliberate acts. In the case that damage is caused by individuals, it should set out measures to ensure the re-establishment of the site by appropriate remedies and/or proper compensation to victims of the environmental harm. In the case of serious environmental harm, the state of which the perpetrator is a national is responsible.

#### 8. Introduction of NBT Awards;

This initiative is a result of the more obligatory use of the voluntary initiatives approach of the proposed covenant. The Covenant should put an emphasis on the development and wider use of incentive measures including awards. The NBT Award may design to serve the ample use and implementation of the objectives and content of the Covenant. It should be granted to selected stakeholders that have made a remarkable contribution to the protection and sustainable use of the NBTA. The achievement of the award should be taken into account by the international community as a sign of the eligibility and commitment of the recipient.

#### 9. Introduction of a Clearing House Mechanism (CHM);

The proposed covenant should provide a CHM mechanism to address the needs of its members for the enhancement of technical and scientific cooperation in NBT. The bases for the action of the proposed CHM are the development of information networks and the dissemination of information, best practices and techniques, and establishing joint research programmes. It also facilitates capacity building, regional cooperation, the transfer of ESTs, cooperation among stakeholders, and early warning systems.

10. Providing a mechanism to confront tourism seasonality and achieve sustainability and awareness; Destination countries and societies are always confronted with the seasonality in their tourism planning and management. This is a major challenge and notable barrier to achieving tourism sustainability. Seasonal mass tourism ignores the carrying capacity limitation of the destination, destroys cultural and environmental assets, puts pressure on precious natural resources, creates job uncertainty, and generates unsustainable conditions in the destinations. NBT has the ability to remove such segments from its market. The proposed covenant should provide an innovative measure by

recommending state parties to allow the leave of absence of students each year during term-time to enjoy NBT activities with their families and provide other students with information obtained, disseminate information amongst the youth and so increase their respect for the environment and local communities' culture. It could also advise the improvement of the system of annual leave with pay for the same purpose.

11. Defining the criteria for sustainability in NBT; The identification of the criteria for sustainability in the NBA should be other important step forwards in the proposed covenant. It has to address the core issues of NBT and provide a proper legal basis for further activities and actions under the umbrella of the covenant. The main criteria are that NBT should be ecologically bearable, environmentally viable, and socially equitable. Other criteria for NBT include increasing local community benefits, contributions to the protection of NBTA, carrying capacity of the destination and confronting seasonality issues, planning with nature in designing NBT products, enhancement of tourists' awareness, and profitability for all stakeholders.

12. Proposing a compliance measure mechanism; Many new legally binding international instruments employ compliance measures as tools to ensure the implementation of the obligations of each party. To the extent of the author's knowledge, there is not an international tourism related instrument with compliance measures as an integral part. The proposed covenant should provide the provision of obligatory compliance measures including strengthening reporting requirements and enquiry procedures. It should also establish different types of visits to sites to verify any breach of regulations observed by the proposed covenant. These visits could be categorised as voluntary visits where the concerned party invites the selected officials to pay a visit to the NBTA, the periodical visits that will be organised through appropriate decisions and measures and, fact-finding missions which are more restricted visits.

There are other requirements such as addressing shared NBTA, creation of a system of NBT at national level, defining carrying capacity of NBTA, setting up guidelines for NBT strategy and planning and management and sustainability measures on production and consumption patterns, to make the propose covenant more effective.

## Conclusion

Despite various attempts made by international environmental and developmental organisations and relevant specialized agencies to propose an adequate framework to deal with the new phenomenon of NBT, lack of an internationally accepted comprehensive, integrated, legally binding agreement based on existing international law and practice is obvious. Such an instrument could fill the gap and properly address one of the outstanding areas of the new convergence of environmental and developmental pillars of sustainable development in the area of sustainable use of natural resources and biodiversity.

Such instrument, based on the previous experiences and relevant international law, should be dealt with the rights and obligations of each major stakeholder in NBT including governments, tourism industry, local communities and others. It should provide a variety of facilities for its members while regulating and harmonizing their activities regarding the protection and sustainable use of resources related to NBT. In addition, it will provide appropriate mechanisms for the participation of all stakeholders and the distribution of benefits in an equitable and sustainable manner.

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