Wildlife Advocate: John Scanlon (Vol 2. Issue 3)

Global Leadership Dialogues
University of Massachusetts Boston

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Recommended Citation
John Scanlon entered office as secretary-general of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) in 2010. He has worked at the local, national, and international levels as an environmental lawyer, leader, and policymaker.

An Australian national, he has held the positions of chief executive of the Department of Environment, Heritage and Aboriginal Affairs; deputy director-general of the Department of Infrastructure, Planning and Natural Resources; and chief of staff for the Minister for Environment and Natural Resources. He was also Australia’s first independent commissioner on the Murray-Darling Basin Commission.

Internationally, Scanlon has served as head of the law program at the International Union for Conservation of Nature (IUCN), director of the IUCN Environmental Law Centre, strategic advisor for the World Commission on Dams, and remains a member of the IUCN World Commission on Environmental Law. In 2007, Scanlon joined the United Nations Environment Programme (UNEP) as principal advisor and as team leader of the Strategic Implementation Team, where he led the development of the Medium-Term Strategy, a reform framework for UNEP.

John Scanlon has been recognized for his leadership and innovation in the fields of environmental law and sustainability. He received the honor of Member of the Order of Australia (2011) for his involvement in national and international environmental law, the International Environmental Law Award (2013) from the Center for International Environmental Law for his impact within international institutions, and the Baobab Award for Innovation (2014) from UNEP for his commitment and creative approaches to combatting wildlife crime.

In December 2014, Maria Ivanova interviewed John Scanlon in Geneva for this issue of the Global Leadership Dialogues series.
You are a distinguished international lawyer with extensive experience at the international and national levels. You now head the Convention on International Trade in Endangered Species of Wild Fauna and Flora. What inspired you to start on this career path?

Why did I get interested in the environment? I think it has a lot to do with growing up in Australia. I had a great interest in the wild fauna and flora of Australia: an interest in all things to do with spiders, snakes, lizards, sharks, kangaroos, wombats, wallabies, and I could go on. When I was growing up, my parents had a small block of land covered with native bush in the Adelaide Hills. We would go there for weekends, and I would go exploring for lizards under rocks, putting them back of course, and tadpoles in the creek. There was a sort of direct connection with nature from my earliest memories.

Also, my mother comes from a very small town in Sweden called Tärnsjö, which I had the opportunity to visit as a young child. It is a beautiful town of about 1,000 people. My mother and her parents grew up with nature. Her father was a local hunter and fisher, and her mother would use the gifts of nature to put food on the table. My grandfather and his friends would hunt an elk and would use the meat for the rest of the year. And as a child I would go through the forest with my grandparents, and they would explain it to me.

So I think it was partly growing up in Australia, and partly my mother’s ancestry. I just grew up with a love of the environment, nature, and everything it had to offer. I would say that was the start.

Then perhaps I took a defining decision when I was 16, which was when I had to indicate what my university preference would be. I had no idea what I wanted to do at that age, but I thought maybe my brain and my way of thinking were best suited for the law, so I put law as my first preference. Thankfully I had great support from my parents and some very good teachers who helped get me to focus on my studies. I was accepted to university to study law, which I started at the age of 17, and that set me off on this career path.

I then had the advantage of gaining work experience with an extremely good land-use planning lawyer. He offered me my first job, and under his generous mentorship we later created one of Australia’s first environmental law practices. So, perhaps, that is how it all started. It all goes back to my keen interest in nature as a child, as a teenager thinking that the law was best suited for me, and getting good support at home when studying and in my first job. Later in life I was able to blend my interest in the law and nature into environmental law.

What were your career milestones from there?

Legal practice was great, but there was a particular point of time where it did not offer quite enough for me. I got very involved with the nongovernmental sector, and together with a number of dedicated people, we created the Environmental Defenders Office in South Australia, as we did not have one at the time. We called it the Environmental Law Community Advisory Service, reflecting our desire to offer a free service to the community. I drafted the founding constitution with a former professor of mine over a coffee at a local café and then became the organization’s first chair.

After some time in private legal practice, I decided to take six months’ unpaid leave and went backpacking around South America with my little sister. At the time I was starting to think I did not want to stay in private legal practice for life. While we were in Peru, I met with Jorge Caillaux, the president of the Sociedad Peruana de Derecho Ambiental (SPDA), the Peruvian Environmental Law Society. The SPDA opened my eyes to a much wider universe through what they were doing in Peru to address environmental issues while grappling with multiple challenges. They were then dealing with the Sendero Luminoso, the Shining Path, which was a very active terrorist group. That experience really inspired me to think about moving on from legal practice and beyond Australia. It took me another four years to withdraw from the practice, but taking that extended trip and then leaving legal practice was a major milestone.
After leaving legal practice, I started working as the chief of staff for the environmental minister in my home state, and that was my launch into a policy career that went from state to national to international level. I left that job to pursue an international career. I flew around the world and met everybody I knew at groups like IUCN, the Foundation for International Environmental Law and Development, and the World Bank. I managed to attain consultancies in the Russian Federation, Guyana, and Vietnam, which helped start my international career.

Subsequent milestones included accepting an offer to become chief executive of Environment, Heritage and Aboriginal Affairs in South Australia—and leaving to further pursue an international career, which led me to the World Commission on Dams in Cape Town, South Africa. So deciding to leave several good jobs, recognizing that if I wanted to work internationally I had to take a risk, was a milestone. And it worked in the end—but not without some moments of doubt!

The next milestone was accepting the post of director of the Environmental Law Centre at IUCN in Bonn, Germany. After spending some time in Sydney, Australia, for personal reasons, I then achieved my next big milestone, which was accepting a post in Nairobi, Kenya, with UNEP. Moving from Sydney to Nairobi was a big step, but we took it. After that, of course, there was the move from there to here, with CITES in Geneva, Switzerland.

So I guess those are quite a few milestones! I think much of it comes down to pushing myself out of private legal practice—even though my income went down by two-thirds overnight, it was the best decision I ever made—and after that actively pursuing a policy career and then international career.

A large portion of our audience for the Global Leadership Dialogues is young people. What would be your advice to those who would like to have a similar career path to yours?

First I would say, don’t be overwhelmed by options. I wonder sometimes whether the number of options that are available today can become overwhelming, and when there are too many options and you want to do everything, you can end up doing nothing. So, I would say, first, do not be overwhelmed.

Second, choose to do something and do it extremely well—even if it is only for a short time. Don’t allow yourself to be distracted by what else you might do or might pursue. If you do, you will stop focusing on what you are meant to be doing. It is like when you meet somebody at a party, look at them and talk to them. If you are looking at them

In March 2015 an informal plenary meeting of the UN General Assembly and a high-level stakeholder dialogue were held in New York to commemorate UN World Wildlife Day, celebrated each year on March 3, the date CITES was adopted.
and talking to them and engaging them directly, once you are done you can go and talk to somebody else. But if you are looking around thinking there might be someone better to talk to, then the person you’re actually speaking with will not think much of you. So, with your job, choose the job that you think is right for now, and focus on doing it extremely well. From there you will have a platform to do other things and other good opportunities will flow; but never take your eyes off what you were employed to do, and do it well.

Let us talk for a moment about your national career. You started as a national lawyer. You have really made a mark in Australia, and now you have a prominent international career. How did the experience in national environmental politics help you in your career at the international level?

It was very helpful for a number of reasons. First, I would say that having been in private legal practice has been critical to where I am now. When you are advising real clients about real laws and how they are applied, well that is where “the rubber hits the road.” The whole system can collapse at that very end point. So, I had examples where I would be arguing for weeks about clause 328 (2) (c), and that little subclause could influence how the objective of the legislation is achieved. At that level, it can depend on how well you argue and persuade. You can see how detail matters and how it gets down to a battle between different interpretations. So, I learned the benefits of paying attention to detail, understanding your briefs, and recognizing that the system ultimately hits the ground with real people—such as judges, prosecutors, and defendants. That has been very useful because I tend to come to the international system from a local perspective. As such, in my international capacity I tend to think about how issues translate onto the ground: is this going to work in the field? Will judges get this? Will prosecutors pick this up? So I think legal practice was a useful discipline for me.

Legal practice also helps you see how complex it can be to make a system work with multiple pieces of legislation all interacting; how difficult it can be to achieve the objectives of legislation when you have well-funded individuals or companies that do not like that objective. It also teaches you how to succeed without having a lot of resources.
If it is robust enough, a sound system can actually result in a decision that is merit based and is not determined just by who has the deepest pockets.

Also, in a legal practice you realize you have to make your own money. Clients were paying thousands of dollars per day for advice, and they expected me to be accountable for that. So, a sense of accountability and of time management came from legal practice. Time is very valuable.

I took those lessons with me when I moved from there to working as chief of staff and then running a government agency where we were administering about 120 acts of parliament which was quite different. A lot of that work was away from the field, and more in the political and policy arenas. There I saw how decisions are taken and how quickly something can shift through the right person making the right intervention to the right minister at the right time. I also saw how getting a message right can work and how getting a message wrong can quickly undo something. So learning how to influence a policy outcome and being very aware of the personalities involved and their particular perspectives and connections was a most valuable experience.

And that is now key in your role as secretary-general of CITES, which has the whole spectrum: fieldwork, policy work, political work, and international work. Please tell our readers about CITES as an international institution. What makes it work? What inspires you to work there, and also what keeps you up at night?

CITES is a legally binding international agreement that is now over 40 years old. It is also called the Washington Convention because it was adopted in Washington, D.C., in 1973. It has 181 state parties, and it is one of the more powerful global environmental agreements we have ever had and maybe are ever likely to have. It is a powerful instrument, but it is an instrument that reflects where parties agree they should cooperate and includes the ground rules they agree to put in place nationally for international trade in listed wildlife—noting that without CITES such trade would not be globally regulated. This is something that is missed by some advocacy groups and individuals. There are global rules that are put into place, but the rules are implemented at a national level and the obligations are between states: state to state, import, and export.

CITES includes a compliance mechanism, which is unusual. The parties to the convention have agreed that they wish to hold themselves to account for their commitments. Not only is that quite unusual in the international system, but they have empowered a standing committee to monitor compliance. That committee has been established not only to look at issues of compliance, but also to take compliance measures. This means the standing committee can recommend measures against sovereign
states, which has a direct impact on the states’ ability to trade or not trade in some or all of these listed species. That is quite unique among environmental conventions.

CITES is actually a little bit like my own career: it has the international dimension, and it also has a very local dimension. I will go from meeting the president of Madagascar one day to meeting a ranger who is serving in the front lines in a national park in Thailand the next, and everything in between. It really is very interesting in that regard, because you do get to connect the international policy dimension with the field quite directly, which is too often lacking.

Another thing I like about the convention is that it is fundamentally about the rule of law. Anyone who has been legally trained probably has a deep belief in the rule of law, and that is what CITES is about. It is about putting in place an agreed regulatory regime: globally agreed rules that we need to apply and adhere to. Sometimes we are attacked from one side or the other—from either those that want more trade or less trade—and they want us to agree with their perspective regardless of the agreed rules. When this happens, I remind them that this is an international agreement and we will do what parties have agreed amongst themselves ought to be done. It is not for me to apply my personal preferences contrary to the expressed wishes of the parties or to act in an arbitrary way. I will not intervene because of what I personally think. It is about what the parties collectively agreed. But the secretariat will make robust recommendations to parties without fear or favor. And if those who are pushing for action think the regulations do not go far enough, there is a process for changing the rules. There is a due process for saying we need to extend the rules, regulate more, or regulate less. So, fundamentally I think that CITES is a great instrument for promoting the rule of law both globally and nationally. You cannot implement this convention without sound national legislation, good national authorities, and good local authorities.

Has it worked? And if so, under what conditions?

Sometimes yes, sometimes no. Overall it is certainly a successful convention. At an international level, states and then state parties have developed a very robust body of laws - some soft, some hard. We have a well-crafted convention and a good body of resolutions and decisions. Parties have interpreted the convention in a very creative way. So, globally I think the development and interpretation at the convention has been good.

The national implementation of CITES has been a mixed bag. In some cases, it is still problematic; in others it is exemplary, and there is everything in between. But the countries where it is not working very well tend to be countries where many other things are not working well: where we see a breakdown of law and order; breakdown in governance; and a fundamental breakdown of the system, which creates problems for CITES as it does for any other legal instrument. If you don’t have effective organs of government, the right authorities in place, and an engaged civil society, then it will not work very effectively. But that is not just for CITES; that is right across the board.

Overall, though, I would say that CITES has been a successful convention.
Much political attention is focused on the upcoming climate change meeting in Paris in December 2015, and on international environmental conventions more broadly. When you say CITES is one of the most powerful conventions and there are many instances where it has worked, what are the lessons for other global environmental conventions? Are there practices or principles that others could take from CITES and adopt or adapt?

I would say yes and no. I would say the things you can learn from CITES that are useful are, first, we are a voting convention. We do not work on the need for consensus, although most decisions are in fact reached by consensus. We work on the basis of a two-thirds majority vote where there is no consensus. In fact, there are rules of procedure that oblige the chair at the CITES conference of the parties (COP) to put a matter to a vote if it is clear there is no consensus. As one delegation pointed out to me at our last COP in Bangkok, this changes the entire negotiating dynamic. You have to work well in advance, and you have to put more effort into who is with you and who is against you on any position. Our negotiations finish at 6 p.m. every day, and you know if there is no consensus it goes immediately to a vote. So there is a lot of negotiating and preparatory work done before the COP. You cannot hold out at one of our conferences. It is impossible.

The second aspect others might learn from is the compliance mechanism, having a robust compliance mechanism where you do have the ability to utilize some measures, where necessary. They are compliance measures of last resort, but they have been used by CITES. We have over 30 in place at the moment, so it is not a theoretical tool. It is used. It is also withdrawn, which is an incentive, I think. So, I would say two things: we vote and we have a compliance mechanism.

I might also add that we do not meet too often. We meet as a COP once every three years, so you actually have sufficient time to do something in between meetings. We also have a good science-policy interface, both at the global level between the science committees and the standing committee, and at a national level between the science authorities and the management authorities. And this science-policy interface is institutionalized in the text of the convention.

In terms of what is perhaps absent, we do not have a financial mechanism. If you look at CITES and the Montreal Protocol, for example, the Montreal Protocol is similar to CITES in some ways. It is a very targeted instrument to deal with ozone depletion, just as we are very targeted. However, it had the advantage of a well-funded financial mechanism, which I think is a critical component of that convention’s success.

That said, there is an important difference between CITES and ozone on the one hand and climate change on the other. We address very specific issues that you can target...
Climate change is about national and regional economies. It is about energy and where you derive your energy from. It is about the fundamental architecture of your economy. That makes it a lot harder to address through a negotiated convention than wildlife trade or ozone depletion. I would say you have to be a little bit more generous to the climate change family, because it sits at a different intersection. There really is not such a direct interface on climate change, and I think that is an important distinction to recognize. Otherwise, though, I think there is something to learn from some of the tools and techniques used under CITES.

Another unique feature of your convention is the criminal nature of some of the trade, which has become a much more palpable issue now that trade in endangered species is recognized as a criminal act. You have been in the news quite a bit for interacting with the communities that deal with these issues at the international level: security organizations and the international police. Tell us a bit about your work with that part of the international community? What does it entail? How do you find common language? What have been some of the projects and highlights?

So, we deal with both legal and illegal trade. We have high volumes of legal trade in CITES-listed species that can be legally traded—the wool of the vicuña used in high fashion, the meat of the queen conch consumed in restaurants, the bark of the African cherry tree used in prostate medicine, and I could go on. There are high volumes of legal trade in such specimens that can be traded commercially. There are also high volumes of illegal trade in specimens that cannot be commercially traded: elephant ivory, rhino horn, tiger parts, snow leopard skins, etc. And sometimes we see illegal trade in species that can be legally traded, if traders do not get the necessary permits, as often happens with python skins and rosewood.

We have seen a change in the scale and the nature of this illegal trade over the past few years, though. This is not local people poaching for subsistence purposes. This is industrial-scale poaching. It is driven by transnational organized criminal gangs. It is having an impact on national security and regional security and on rule of law, especially in Central Africa. These gangs come in, they corrupt local officials, they undermine any effort to build up the rule of law and good governance, and they undermine local communities. Local communities do not really benefit from this illicit activity—a couple of individuals may, but not the community itself. Local communities, in fact, are
deprived of development opportunities because their natural resources are being stolen from them for profits off shore.

We are also seeing impacts on ecotourism: in places like Kenya and Tanzania, upward of 10 percent of GDP comes from wildlife-based tourism. Countries such as Gabon want to develop their nature-based tourism, but if you strip out all their wildlife they have nothing to actually build an industry upon, so it is diminishing that valuable asset.

Finally, but not by any means least, there is the impact on ecosystems. What we are finding is that any species that is of high commercial value in an ecosystem is being taken; whether it is rosewood, tiger, rhino, elephant, or pangolin. So the integrity of the entire ecosystem and all the services it provides is being undermined. There is a suite of impacts, such as on security, which is why the UN Security Council is interested. Are they interested in elephants? No, they are interested in the Lord’s Resistance Army poaching elephant ivory for illicit purposes. Are INTERPOL and the UN Office of Drugs and Crime (UNODC) worried about elephants being killed? Maybe staff are personally concerned, but no, not as intergovernmental agencies. What they are interested in is transnational criminal gangs who are involved in illicit activities and using their profits to advance all manner of other criminal activities.

What we have done over the past years is to use the right message for the right audience to show the multiple impacts of this illegal trade. We want combatting this illegal trade to become part of their agenda. So what we stress to INTERPOL and the UNODC, for example, is that this is an organized criminal activity that is resulting in high profits and we need police officers, prosecutors, and judges to agree that combatting wildlife crime is a part of their job. Then we work with the World Customs Organization (WCO) to advance the idea that combatting wildlife crime is a part of their job. The same thing applies to the UN Convention against Transnational Organized Crime. Wildlife crime is serious and should be treated as serious, so we can deploy the same tools and penalties. What we have collectively achieved with all of these agencies is to infiltrate their core programs by showing that CITES is relevant to their own mandates. We have now CITES integrated into the work programs of INTERPOL, the UNODC, the WCO, and the World Bank, as well as the Global Environment Facility (GEF). We also have seen the United Nations Development Programme (UNDP) looking at livelihoods, governance, and rule of law; and UNEP looking at environment and ecosystems, etc. As you can see, we are not solely working on the environment dimension of these crimes, but on all the dimensions of illegal trade.

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And that is how you internalize it for those organizations, and as you said, making it part of their job is what is going to ensure that the job gets done.

Exactly, so they pick up the issues as a part of their work. They are implementing CITES as part of their work. We have great commitments from various individuals as well, such as the executive heads of UNDP, UNODC, and the WCO, as well as UNEP and others. The executive heads of these organizations have picked up the issue and have run with it, which has been fantastic. In addition, we are working directly with the UN Educational, Scientific and Cultural Organization (UNESCO) on World Heritage sites—we monitor 14 World Heritage sites across Africa, seven of which are on the in-danger list under the World Heritage Convention because of the impacts of poaching. We are working with UNESCO, including with its director-general, to combat this poaching because the related illegal trade is diminishing the value of these World Heritage sites. There is a direct interface there. I think we have demonstrated the relevance of CITES across a broad range of players who have now picked it up and are running with it, which is the best thing that can happen.

Another unique feature or developed contribution of CITES that you mentioned is the science-policy interface. You really work on that boundary between science and policy, and that is another key concept that has now entered the international governance discourse and it’s in the Rio+20 outcome document as a recommendation to the organization where you were previously based, the UN Environment Programme. Science-policy interface is a term that many are still grappling with. Can you give us
your definition of what a science-policy interface is and how it can be improved? What is the role of scientists, of academics, and policymakers? How can we truly improve that relationship to see the results that you are trying to attain through your convention?

Let me start from the perspective of CITES. At the national level, you’re obliged to create at least one science authority and a management authority. The science authority, by definition, is the scientifically based authority; the management authority is a bureaucratic institution. The management authority can only issue a permit on the advice of the science authority. So the science authority does what’s called the ‘nondetriment findings.’ It determines the level of trade that is sustainable for species that can be traded. The management authority needs to pick that up in its permit. So it cannot at its own discretion say you can trade 1,000; it must be based on good science. Our science committees work directly with the Conference of the Parties and the Standing Committee, to provide direct advice on the impacts of trade on plants and animals; on what additional measures need to be taken; and then that advice finds its way through to the COP, as a political and policy-level forum. So the way the science-policy interface works at the highest level in our convention is that the COP gets the best possible scientific advice about what should be listed, or delisted, and what measures could be taken. Ultimately, the COP is a political body. And parties can take a political decision. I would say 95% of the time they run with the science and 5% of the time they diverge, being stricter or looser depending on the politics.

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But the parties have the opportunity to make a fully informed choice. They know the scientific parameters of their decision making; they know what the science says. But this does not derogate from their discretion as a political body.

Let’s talk about the role of universities because ultimately that’s what our purpose is, to educate both the scientists and the policymakers that would make these decisions eventually. Looking back at your own career and looking forward to what needs to be done in the world from a global environmental-governance perspective, what do you think the role of universities could be, should be, and is there an educational model that we should be thinking about and promoting more actively to enable the science-policy interface to be effective.

If I draw on my own experience, I think I had excellent academic training at law school, but I think what was lacking was exposure to real practitioners, be it a legal practitioner or a policy practitioner. I got exposed to the law, how to interpret the law, and the principles, which was very good and you can never abandon that. However, it wasn’t until I did my graduate diploma that I was exposed to practitioners, which gave me a whole different perspective. It wasn’t until I got to legal practice, where I had an excellent mentor—who was sometimes more of a politician than a lawyer—that I was exposed to completely different ways of looking at legal challenges, not only legally but also strategically and politically. My mentor would always assess how we could negotiate something through many different paths, without having to litigate. Now I think what would be lovely to see in a university, and I think there are good examples of this happening in the United States, is how you actually bring these aspects together. I would have loved at law school not only to be given the principles but to hear from real practitioners, to hear from people who had been working at the coalface of legal challenges. Why is legal advice not always accepted? How can you frame legal advice that is going to be more effective? How does the

At the World Parks Congress (2014) hosted by the IUCN, Scanlon was one of the speakers during the World Leaders’ Dialogues.
system actually work in the real world? I think to blend the core discipline you need to understand fundamental principles; to approach the law with a wider understanding and appreciation for how the law can be applied would be ideal.

You are in a leadership position, but you have also taken a very active leadership role in wildlife protection. What are the character traits that are critical to your ability to be an active leader, and how are they developed?

Whether I work locally or globally, there are some fundamental principles I apply. People like being listened to and people like being treated with respect, even if you disagree with them. The fact that you recognize their perspective is important. I love diversity; I revel in it. I really enjoy different perspectives and different views. Debating and discussing issues, thrashing them out is energizing. Having a view and finding out you got it wrong after hearing other perspectives is a positive thing.

In CITES, we deal with states that may have fundamentally different views. I think what they legitimately expect is that you empathize and have respect for different perspectives and cultures. The convention recognizes where we have common ground and states have agreed that in the interest of conservation, we need to regulate trade in some wildlife. What binds us together is that we want all animals and plants to survive in the wild. That is common. So whichever perspective you come from, we all agree to work toward this common objective. So we will listen and seek to appreciate all perspectives and see how they can or cannot be accommodated, in a way that gets us to where we all want to be. There are of course some limits, as there are with anything.

Being open-minded, listening, really listening, absorbing what is being said, and treating people with respect is critical. It’s key whether you are working at the local level or the global level. The fundamental characteristics of people are the same.

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Citation Information
Please use the following citation for this brief:

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