



Basic principles of legislation to implement CITES



Treaty incorporation

- CITES is an international treaty which is **not self-executing** upon a country's adherence (i.e. agreement to be legally bound by its provisions)
- The implementation of CITES obligations requires that policy, powers, rights, duties and procedures be set forth in national legislation
- Effective CITES implementation is impossible without an adequate legal basis at national level
- Trade should not be allowed unless adequate legislation is in force



What is legislation?

- Legislation represents national policy on why, how and which wildlife resources must be managed
- It creates an administrative framework and procedures for managing those resources
- It authorizes the collection and evaluation of relevant information and the taking of decisions
- It places obligations and restrictions on people who handle the resources and provides incentives
- It encourages proper use, monitors compliance and punishes illegal practice



Socio-economic aspects of legislation

- Legislation reflects the State's policy choice on the management of its biological resources
 - e.g. trade in all wildlife, trade in selected species, trade in captive bred or artificially propagated specimens, non-commercial trade, trade ban
- It determines the ownership of those resources, whether and how they will be commercialized as well as who will benefit
- Sound national legislation helps to change people's attitudes and behaviours



How is legislation developed and applied?

- **Conception:** analysis of the problem, policy options, objectives, means and future evaluation
- **Development:** writing of legislative text, choice of the form (law, decree, ordinance), choice of procedure (parliamentary or administrative), choice of compliance scheme and enactment
- **Implementation:** application, compliance monitoring and enforcement
- **Future evaluation:** assessment of the legislation's effectiveness, that is, whether its objectives are achieved



Legislative elements

- GENERAL PROVISIONS
- REGULATION OF TRADE
- INSTITUTIONS
- COMPLIANCE MEASURES



General provisions

- Purpose
- Conformity with CITES
- Scope (all animals and plants in CITES Appendices)
- Definitions (consistent with Convention and Resolutions)
- Links to related legislation (environmental, natural resource, customs/trade, criminal/civil codes)




Institutions

- Designation
- Structure
- Powers, functions (MA, SA, enforcement authorities)
- Relationships with other authorities and coordination
- Role of traders, public and NGOs
- Funding mechanism



Regulation of trade

- Import/export/re-export/introduction from the sea (transit / transshipment)
- Permits/certificates/markings/transport conditions
- Licensing/registration/records (trade, breeding)
- Border and internal trade control (limited entry points)
- Exemptions and special provisions

 CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA	PERMIT <input type="checkbox"/> EXP <input checked="" type="checkbox"/> RE- <input type="checkbox"/> IMF <input type="checkbox"/> OTI	
	2. Import (name and address) 	4. Export
	3. Country of Import 	
	5. Conditions 	6. Name
For live animals, this permit or certificate is only valid if the transport conditions conform to the Guidelines for Transport of Live Animals or, in the case of air transport, to the IATA Live Animals Regulations		



Compliance measures

- Prohibit trade/transit without proper documents
- Prohibit possession, transport, and trade without proof of legal acquisition
- Penalize fraud/non-compliance
- Confiscate specimens illegally traded/possessed
- Education/incentives



Compliance measures

- Adequacy of penalty in relation to offense
- Increased on subsequent offenses
- Fine, imprisonment, ban on future trade activities, forfeiture, other
- Corporate liability
- National/regional harmonization
- Fines directed towards enforcement

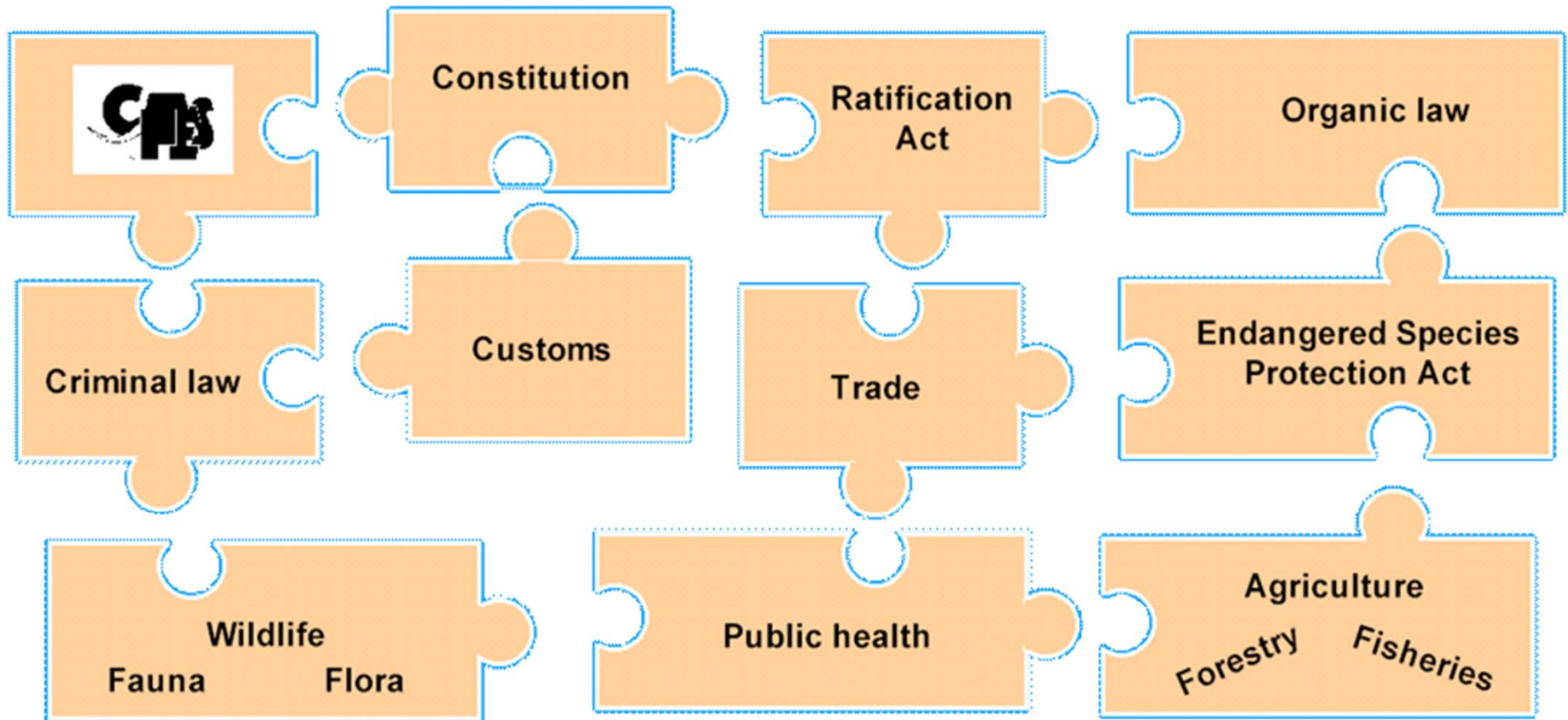


Elements to consider when preparing legislation

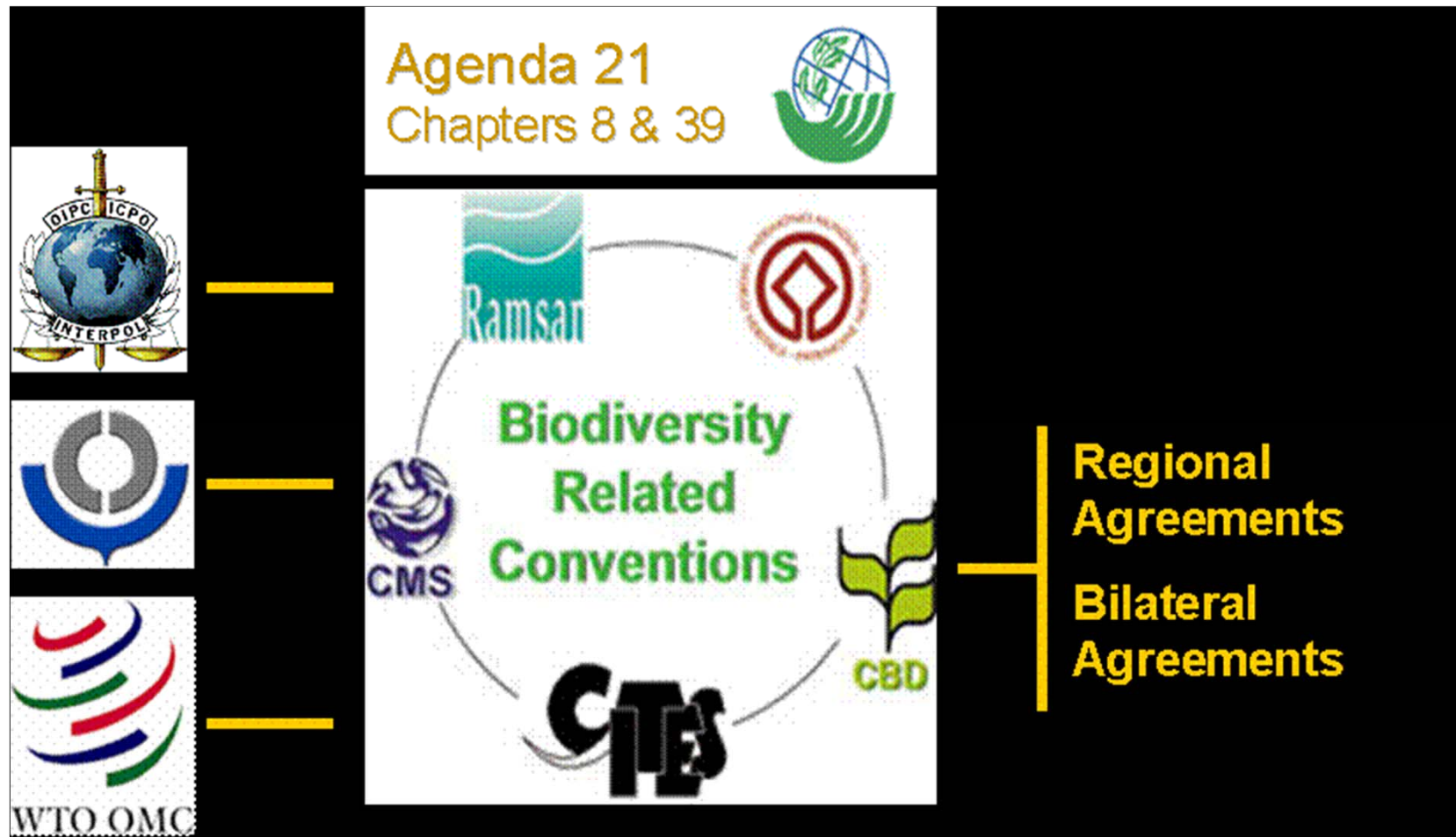
- Legislation should be **realistic** in the context of human and financial resources available to implement it
- Legislation should be **flexible** and should take into account special circumstances of the country
- Legislation should be **simple** and **clear**
- New or amended legislation should be viewed in relation to existing, relevant legislation
- Holistic biodiversity legislation should be considered
- If stand-alone legislation is chosen, fragmentation should be avoided



Domestic legislation could be a maze



Legislation in a broader international context



CITES Secretariat Geneva

