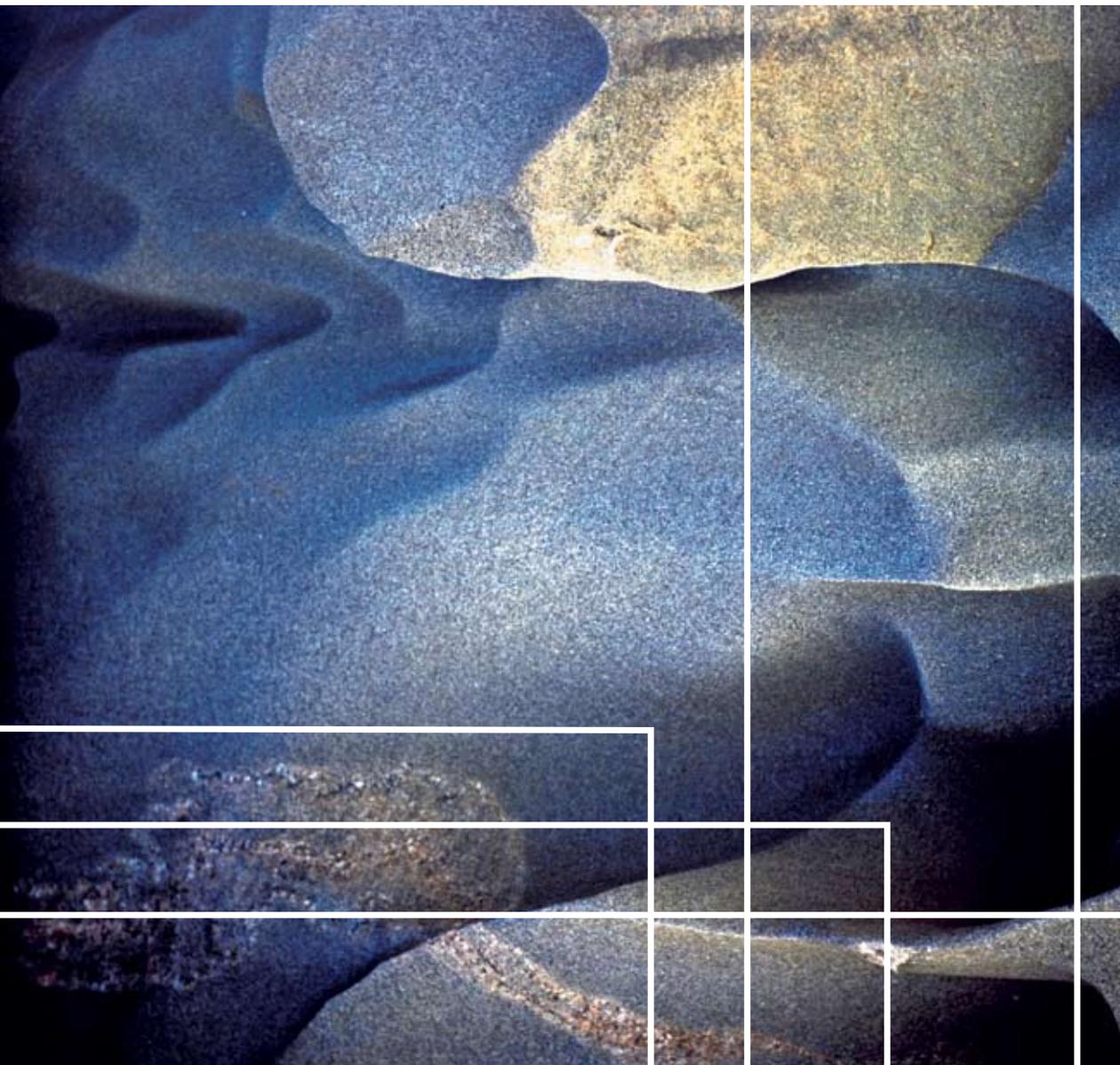


Manual on Compliance with and Enforcement of Multilateral Environmental Agreements



UNITED NATIONS ENVIRONMENT PROGRAMME

United Nations Environment Programme



MANUAL

ON

**COMPLIANCE WITH AND ENFORCEMENT OF
MULTILATERAL ENVIRONMENTAL AGREEMENTS**

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The Manual was initiated by Donald Kaniaru, then Director of the Division of Environmental Policy Implementation (DEPI) of UNEP. It was drafted and edited by Carl Bruch and Elizabeth Mrema formerly with DEPI, later in the Division of Environmental Conventions (DEC) of UNEP. A first draft and desk-study was prepared by Margaret Fubara. Amy Hindman, then with DEPI. The Manual has been reviewed and revised through a series of regional workshops on compliance with and enforcement of multilateral environmental agreements (MEAs). The Manual has benefited greatly — both in form and in substance — from the contributions of the individuals who participated in these workshops and lent their experience, knowledge, and expertise. After each workshop, the editorial team reworked the text, making corrections and additions to improve the usability, accuracy, balance, and completeness of the Manual. The key results of the various workshops are summarised at the end of the Introduction of this Manual, starting on page 29.

A final critical review of the Manual was undertaken by Martin Krebs and Arnold Kreilhuber, legal officers with the Division of Environmental Conventions (DEC) of UNEP, and Anne Bourdy, programme officer with DEC.

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Foreword

After decades of developing environmental treaties, conventions, protocols, and other Multilateral Environmental Agreements (MEAs), international attention is shifting to compliance with and enforcement of these instruments. The need is clear: many countries are struggling to implement their environmental commitments under the numerous agreements to which they are party. Where do they start? Are there more efficient and effective ways to implement? How can it be done with limited resources?



Shafqat Kakakhel

To assist countries in addressing the various challenges, the United Nations Environment Programme (UNEP) is honoured to present this Manual on Compliance with and Enforcement of Multilateral Environmental Agreements. This Manual is part of UNEP's broader efforts to strengthen capacity to implement, comply with, and enforce MEAs and environmental law more broadly.

Throughout its history, UNEP has been a leader in catalyzing and facilitating the negotiation and development of MEAs. More recently, UNEP has also played a key role in refocusing international attention on compliance and enforcement. From 1999 to 2001, UNEP convened a process that led to the development and adoption of Guidelines on Compliance with and Enforcement of Multilateral Environmental Agreements. These Guidelines, adopted in February 2002, provide a set of approaches and considerations for countries as they negotiate, implement, and enforce MEAs. The Guidelines are significant for the breadth of their reach and the clarity and succinctness of their language.

The Manual complements the Guidelines by providing specific examples from around the world on how Governments, NGOs, the private sector, and other institutions have utilized the various approaches set forth in the Guidelines. The Manual also provides more detailed explanations, checklists, and additional resources in order to give depth to the specific approaches: How do they work? What are different ways to structure or implement a specific approach? How is it funded? Who coordinates the activities?

Indeed, the specific examples are one of the aspects that make this Manual unique and significant. They are practical, rather than hypothetical or theoretical. Moreover, most of them come from countries with developing economies or economies in transition. As such, the examples are more relevant and easily adaptable to countries that face very limited financial, institutional, technical, and personnel resources.

It is anticipated that compliance with and enforcement of MEAs will remain a high priority of the international community for many years to come. There is a lot of work to be done but also a lot to learn and adapt or emulate from this Manual. There are positive examples from numerous developing countries – many of which are highlighted in this Manual – but there also are significant constraints to take into consideration as MEAs are implemented or enforced.

To strengthen compliance with and enforcement of MEAs, UNEP has convened regional and national capacity building workshops, initiated and supported innovative projects, and launched a dialogue on the future of compliance and enforcement of MEAs. UNEP's Regional Offices have provided technical assistance to Parties by assisting them to draft implementing laws and regulations; strengthened government, civil society, and private sector capacity to implement, comply with, and enforce environmental law including MEAs; and fostered regional cooperation and coordination. In response to requests from Governments, UNEP worked with States to develop the Bali Strategic Plan on Technology Support and Capacity-building. The Bali Strategic Plan builds upon UNEP's earlier efforts in these areas, and establishes a framework for assisting States in realizing, based on their priority needs, the practical measures necessary for effective implementation, compliance, and enforcement of MEAs.

With the shift to compliance and enforcement of MEAs entrenched, it is becoming increasingly important to exchange experiences regarding specific approaches. In this context, the experiences described in this Manual take on added significance.



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How To Use This Manual

This Manual was designed to improve and facilitate use of the UNEP Guidelines on Compliance with and Enforcement of MEAs through a variety of means. Its organisation follows that of the UNEP Guidelines, with the first part of the Manual devoted to compliance and the second part to enforcement.

The Manual is intended for use by a wide audience: treaty negotiators, political officials, lawyers, police, customs officers, researchers, and legal drafters in governmental, non-governmental, academic, and professional institutions. Considering the breadth of topics and audiences entailed, this Manual is a reference tool. It is not meant to be read cover-to-cover.

Format

The Manual is presented as an annotation to the Guidelines. Following a general heading, the particular guideline (or relevant sub-paragraph of the guideline) under discussion is repeated in full. The material following the guideline text is the core of the Manual. Explanatory text expands upon the text of the guideline in simple, clear language. Text boxes present case studies from specific countries or regarding specific MEAs. These illustrative examples provide the reader with concrete experiences and applications to clarify the meaning of the particular guideline. At the end of many guidelines and accompanying text, there is a checklist that provides some key considerations to bear in mind. The checklists draw upon best practices in a number of geographic, cultural, and thematic contexts. At the same time, checklists (like the Guidelines and the Manual itself) are advisory and users of the Manual are encouraged to adapt them to the particular circumstances.

In order to keep the Manual at a manageable length, the explanatory text, illustrative case studies, and checklists are intentionally brief. Where possible, references to further information are provided at the end of the particular discussion. Where books are cited, the reference sets forth the author's name, and the full citation is in Annex VI. Similarly, where Internet-based resources are utilised, the Web site is provided. The case studies set forth in the Manual frequently refer the interested reader to the person or institution providing the case study or an individual otherwise familiar with the details.

In some cases, the general concept underlying a series of paragraphs within the Guidelines (for example, Guidelines 40-44) will be addressed in an introductory entry, with specific subsections of these guidelines addressed in more detail afterwards. Thus, the reader should check both the general and specific sections addressing a particular guideline.

Some tools and approaches are relevant to both compliance and enforcement. For example, while the Guidelines and the Manual generally consider compliance to be an international matter, entailing what a nation needs to do to comply with its international commitments, some of these measures are domestic (such as the development of national laws, regulations, and institutions). Where a tool appears in both the compliance and enforcement Guidelines, the full discussion of the tool appears in the most relevant Chapter with an appropriate cross-reference in the other Chapter.

Different Users

There are two primary modes of intended use. First, the Manual can provide a primer on the basic considerations and approaches for a particular group of users. Obviously, certain parts of the Manual will be more relevant to particular users than others. Accordingly, the parts that are the most relevant to particular key groups of users are laid out below.

Users	Guidelines	Pages
All (for background)	1-9, 35-39	29-60, 289-314
Foreign Affairs Officers	10-34, 41(b), 43(f), 45-49	61-286, 400, 545, 605-657
Legislators	20, 22-23, 26, 32, 40-42, 45-46, 48-49	186, 194-195, 203, 207, 315-544, 605-613, 619-657
Administrative Agencies (developing and implementing policies, regulations, and institutional frameworks)	20-34, 40-49	186-286, 315-657
Police, Customs, and Other Enforcement Officers	21-22, 25-26, 33-34, 40-43, 47-49	187-194, 203, 208-286, 315-564, 614-657
Judiciary	32, 40-41, 43, 47	207, 315-510, 545, 614
Educators and Media	26, 30, 33, 41, 43-44, 49	203, 205, 208, 371, 545-604, 639
Civil Society, Local Authorities, Private Sector (i.e., other major stakeholders)	27-33, 41-44, 48	204-222, 371-604, 619

Second, this Manual may be used to address a particular issue, for example to draft a law addressing environmental crimes or to strengthen the capacity of customs officials to identify and seize environmental contraband (such as hazardous waste, ozone-depleting substances, or endangered species). For these specific needs, the user would be advised to start by consulting the index for an appropriate keyword.

Finding Information

People who are using the Manual for the first time are encouraged to flip through the Manual to become familiar with the types of information and resources available in the Manual. As described above, certain classes of users may be more interested in particular Guidelines and accompanying materials than other users might be. Due to the complex and inter-connected nature of many compliance and enforcement issues, there often is relevant information following other Guidelines.

Once a person is familiar with the general structure and methodology of the Manual, the Manual is designed as a reference tool. As such, UNEP has developed a variety of ways to find information in the Manual. These include:

- using the detailed Table of Contents, above;
- by Guideline (if one is familiar with the Guidelines);
- through cross-references in the Manual to other Guidelines, case studies, and explanatory text;
- by following the suggestions for more information (e.g., by visiting the web pages listed at the end of many case studies); and
- by using the resources in the Annexes.

The Annexes include different types of information to supplement the Manual. Annex I provides the full text of the Guidelines. A background note on the Guidelines' development is provided in Annex II. Annex III provides different resources for finding information on a particular MEA. Due to the particular context of small island developing states (SIDS), Annex IV describes some of the key issues and approaches for implementing MEAs in SIDS. Annex V sets forth a list of relevant contacts, including contacts for obtaining more information on specific experiences and approaches highlighted in this Manual (as denoted at the end of case studies). Annex VI includes a list of selected publications, many of which provide more information on case studies, while Annex VII includes Internet references. Compositions of certain negotiating blocs are enumerated in Annex VIII. Annex IX includes a list of acronyms used in the Manual. Annex X provides a glossary with definitions of key terms related to MEAs. Finally, Annex XI includes sample forms and documents.

The case studies and analyses included in this Manual have been selected for their breadth of potential application to different regions, MEAs, and legal, socio-political, and economic contexts. Accordingly, the various examples should be viewed broadly with the potential of creative application to different contexts.

Caveats

This Manual highlights experiences from around the world in negotiating, implementing, and enforcing MEAs at the national, regional, and global levels. In many instances, the case studies represent innovative approaches toward compliance and enforcement. In some instances, though, the case studies are illustrative of a particular approach, and are not necessarily unique to that particular State or region.

UNEP intends to translate this Manual from English into the other five UN languages (Arabic, Chinese, French, Russian, and Spanish). To the extent possible, UNEP is endeavouring to maintain a consistent look and feel throughout the Manuals, regardless of the language or whether the Manual is available in print or electronic format. The issue of translation of terms has been challenging. Experience with earlier drafts of the Manual illustrated that translation is not just a linguistic issue: it is also a conceptual, legal, social, and cultural issue. Different countries have their own legal and socio-cultural systems, with different tools and concepts. In some instances, certain terms may be easy to translate, while others may be more difficult. The terms "compliance," "enforcement," and "implementation" have proven particularly challenging. For consistency, UNEP has used the

official translation of the 2002 UNEP Guidelines on Compliance with and Enforcement of MEAs to guide it in translating the text of the Manual.

Translation of terms in the Manual is not just a linguistic matter, it can also be challenging for conceptual, legal, social and cultural reasons.

These conceptual and legal challenges associated translation also encourages a flexible approach to using this Manual. Each State has its own system, and an approach that works in one State may or may not work in another State.

The following tutorial illustrates, in a step-by-step manner, how users can use the manual to find the information that they are seeking.

States¹ with Experiences in the Manual

(either in case studies or explanatory text)

Albania	Ghana	Saint Vincent and the
Antigua and Barbuda	Guinea-Bissau	Grenadines
Argentina	Guyana	Saudi Arabia
Armenia	India	Senegal
Australia	Indonesia	Seychelles
Austria	Jamaica	Sierra Leone
Bahamas	Kazakhstan	Singapore
Barbados	Kenya	Slovak Republic
Belarus	Korea, South	Slovenia
Belize	Kyrgyzstan	South Africa
Benin	Lebanon	Spain
Bhutan	Macedonia	Sri Lanka
Bolivia	Madagascar	Sudan
Brazil	Malawi	Switzerland
Bulgaria	Mauritius	Syria
Burkina Faso	Mexico	Tajikistan
Cameroon	Mongolia	Tanzania
Canada	Morocco	Thailand
China	Netherlands	Togo
Colombia	New Zealand	Tonga
Congo (Brazzaville)	Nicaragua	Trinidad and Tobago
Congo, Dem. Republic of	Nigeria	Uganda
Cote d'Ivoire/Ivory Coast	Norway	Ukraine
Croatia	Oman	United Kingdom
Dominican Republic	Pakistan	United States
Fiji	Philippines	Uzbekistan
Finland	Romania	Venezuela
Gambia	Russian Federation	Zambia
Georgia	Saint Lucia	Zimbabwe

¹ The names used here do not necessarily correspond to the official denomination of the States.

States¹ Otherwise Mentioned in the Manual²

Algeria	Iceland	Niger
Azerbaijan	Iran	Palau
Bahrain	Ireland	Panama
Belgium	Israel	Peru
Bosnia and Herzegovina	Italy	Poland
Botswana	Japan	Qatar
Brunei	Jordan	Rwanda
Cambodia	Kiribati	Saint Kitts & Nevis
Cape Verde	Kuwait	Samoa
Chad	Laos	Sao Tome & Principe
Chile	Lesotho	Serbia & Montenegro
Costa Rica	Liberia	Solomon Islands
Czech Republic	Libya	Suriname
Denmark	Luxembourg	Swaziland
Dominica	Malaysia	Sweden
Ecuador	Maldives	Tunisia
Egypt	Mali	Turkey
El Salvador	Marshall Islands	Turkmenistan
Ethiopia	Mauritania	Tuvalu
France	Micronesia	United Arab Emirates
Germany	Moldova	Uruguay
Grenada	Monaco	Vanuatu
Guatemala	Mozambique	Vietnam
Honduras	Myanmar	Yemen
Hungary	Namibia	

¹ The names used here do not necessarily correspond to the official denomination of the States.

² These States include those States that are specifically mentioned by name as supporting or otherwise participating in specific initiatives or adopting particular approaches. This list does not include States that are listed solely for the purpose of enumerating the States included in a specific negotiating bloc (e.g., in Annex VIII). Nor does the list necessarily include all the States that are members of regional organizations that are highlighted in specific case studies.

Tutorial on How to Use the Manual

There are a few basic ways to use the Manual. First, readers may peruse the Manual to identify a range of considerations and approaches in negotiating, complying with, and enforcing MEAs. This is self-explanatory, but the reader may wish to consult the table of users and guidelines of particular interest. The second way to use the Manual is to start with a particular issue or “tool.” The third way is to start with a particular guideline. This brief tutorial walks through a few examples.

Example 1(a) Starting with a Particular Issue (Preparing for Negotiations)

- Read the relevant Guideline first [number 10]. It provides general information on actions to improve preparation for negotiation of MEAs (including a checklist).
- Then read the explanatory text and case studies of the sub-Guidelines (a, b, c, ...). They provide further clarification and examples (on Exchange of information among states; Consultations between negotiating sessions; Workshops on compliance; and Institutional and ministerial coordination at the national level).
- Note that there is a Checklist for Environmental Treaty Making.
- There is also explanatory text on avoiding overlaps and encouraging synergies with existing MEAs.

Example 1(b) Starting with a Particular Issue (Media)

- Read the relevant Guidelines first [numbers 30 and 31]. They provide general information on the use of public awareness and the media to improve compliance with MEAs.
- Then read the explanatory text and case study. They provide further clarification and examples: CITES (in explanatory text); discussion of the usefulness of negative publicity; a case study of a public awareness campaign; and other examples.
- There is also a cross-reference to Guideline [44] for more discussion of use of the Media and Public Awareness.
- Go to Guideline [44] (starting on p. 565).
- A brief review of Guideline [44] reveals that it discusses use of the media and public awareness in an enforcement context, with several specific examples, including use of a media campaign to target a specific environmental challenge.
- Note the structure of Guideline [44]: chapeau with general analysis for the guideline, followed by six specific tools (most with case studies).
- In contrast with the first example — Preparations for MEA Negotiations — note that this example highlights a tool that is found in both the Compliance and Enforcement Chapters of the Manual. This is because Media and Public Awareness are found in both the Compliance and Enforcement Chapters of the Guidelines. To reduce duplication and overlap, most of the explanatory text

and case studies are grouped in the Enforcement (i.e., national-level) Chapter, where media and public awareness are most often used.

Example 1(c) Starting with a Particular Issue (Economic Instruments)

- Read the relevant Guideline [23]. The Guideline and the explanatory text are brief, referring the reader to Guideline 41(g), in the Enforcement Chapter.
 - While example 1(a) was entirely found in the Compliance Chapter and example 1(b) was split between the Compliance and Enforcement Chapters (although predominantly in the Enforcement Chapter), this example has only the briefest of text in the Compliance Chapter, because as a practical matter economic instruments — as shall be

KEY TO THE LAYOUT OF THE MANUAL

List of actions that States may take into consideration. The checklist is advisory.

Acknowledgment of the source of the material in the checklist.

CHECKLIST FOR RATIFICATION AND ACCESSION

As noted in the Primer on Negotiating and Ratifying MEAs (at the beginning of Chapter I of this Manual), every State has its own rules and procedures governing how it becomes a Party to an MEA. To the extent that their constitutions and national laws permit, States may consider the following actions related to ratification:

- Identify or develop clear procedures for becoming a Party to an MEA.**
 - In establishing these procedures, the scope of treaties should be defined broadly enough to include all MEAs of likely significance to the State.
- Provide a role for Parliament in deciding whether the State should become a Party to an MEA.** Engaging Parliament in this phase can build parliamentary “ownership” of the MEA and facilitate the development of the necessary laws, institutions, and financing to implement and enforce the MEA.
 - **Such a role could range from providing for Parliamentary discussion and debate of the MEA to requiring Parliamentary approval.**
 - **The parliamentary discussion and debates may be made available by radio or television broadcast, or otherwise publicly disseminated.**
 - **To the extent that the State may wish to withdraw from an MEA,** Parliament may be granted the same role in discussing and debating (and perhaps being required to approve) the decision.
- Ensure that the rules governing becoming a Party to an MEA require the political focal point or other relevant governmental body to communicate the State’s acceptance to the Depository and the MEA Secretariat within a specific timeframe.**
- Developing legislation to implement the MEA simultaneously or in advance of becoming a Party.**
- Guarantee that once the State has signed an MEA (but has not yet ratified the MEA) that it refrain from any activities that would undermine or be counter to the MEA.**
- Provide courts with the power to take judicial notice of MEAs that have been signed by the State.**

This Checklist builds upon a similar checklist in the 1999 CARICOM Guidelines for MEA Implementation.

* For a summary of the differences between ratification, accession, approval, adoption, and signature, see the “Primer on Negotiating and Ratifying MEAs,” at the beginning of Chapter I.

seen — are used almost entirely at the national level and thus more a topic of concern for the Enforcement Chapter.

- Proceed to Guideline[41(g)] (on page 421). Note the many tools that are listed under economic instruments. These include, for example tax and tariff systems, subsidies, and various creative financing arrangements. There are also a series of case studies on environmental funds and environmental taxes and bans.

Compliance Assessment and Compliance Plans

[48] Compliance assessment: Prior to ratification of a multilateral environmental agreement, a State should assess its preparedness to comply with the obligations of that agreement. If areas of potential non-compliance are identified, that State should take appropriate measures to address them before becoming a party to that agreement.

[49] Compliance plan: If a State, once it becomes a party to a specific multilateral environmental agreement, subsequently identifies compliance problems, it may consider developing a compliance plan consistent with that agreement's obligations and inform the concerned secretariat accordingly. The plan may address compliance with different types of obligations in the agreement and measures for ensuring compliance. The plan may include benchmarks, to the extent that this is consistent with the agreement that would facilitate monitoring compliance.

Compliance assessments are important to conduct prior to ratifying an MEA. Such an assessment provides a State the opportunity to assess its ability to comply with the terms of the MEA before ratifying it, as failure to do so could result in non-compliance the instant it becomes a Party. As such, the compliance assessment allows a State to identify and correct areas of potential non-compliance so that it is able to meet its obligations immediately upon ratification. In many cases, the compliance assessment will identify changes that need to be made to national, sub-national, and local laws to ensure compliance. Because the adoption of implementing law can be a long process, depending on the State's legislative system, it can be important to conduct compliance assessments early in the negotiating process so that the State can negotiate with the full knowledge of what national measures might be necessary. Moreover, a compliance assessment can assist in the early development of necessary framework and sectoral laws to implement the MEA (see the discussion of Guideline 20, below, devoted to implementing laws and regulatory frameworks).

Even States that have taken all necessary steps prior to ratification, however, may find that they subsequently identify areas of non-compliance after becoming a Party. In such



BIODIVERSITY COUNTRY STUDY IN GEORGIA

After Georgia ratified the CBD in 1994, it undertook a Biodiversity Country Study. This study was required by the CBD. Published in 1997, this study gathered and compiled existing information on the status and trends of Georgia's species and habitats. It identified gaps and made recommendations for conserving the nation's biodiversity. For more information on the study, contact the NGO Nacres at striped.hyena@nacres.org

National Measures to Implement MEAs • COMPLIANCE WITH MEAs **[181]**

Index tabs indicating chapter and sub-chapter for easy navigation through the Manual.

CH 1 - D

Explanatory text, expanding on the particular Guidelines and introducing the case studies.

20

Cross-reference to discussions in other parts of the Manual (in this case, following Guideline 20).

Case study.

Chapter of the Manual with Sub-section of the Manual.

Page number.

Guideline number. Accompanied by text of Guidelines (Guidelines reproduced in full in Annex I).

Example 2(a) Starting with a Particular Guideline (Guideline [40], on National Laws and Regulations)

- Looking through the table of contents, note Guideline [40] (starting on page 315) which addresses national laws and regulations to implement MEAs.
- Read the Guideline first. The three sub-paragraphs are each addressed separately on the subsequent pages.
- The explanatory texts and case studies include a discussion of ways for incorporating international environmental law (including MEAs) into national law; adaptively developing implementing legislation; the process for developing implementing laws; conducting cost-benefit analysis for legal and regulatory

KEY TO THE LAYOUT OF THE MANUAL

Case study.

Additional resources on the topic, where someone can get more information on the topic (in this case, National Implementation Plans). These resources may include books, articles, and materials available on the Internet, as well as cross-references to other materials within the Manual.

C - IHD

NATIONAL ADAPTATION PROGRAMMES OF ACTION (NAPAs) UNDER THE CLIMATE CHANGE CONVENTION

In 2001, the 7th COP of the UNFCCC recognised that developing countries needed assistance in developing plans to address the adverse effects of climate change. In particular, the COP decided that the Least Developed Countries (LDCs) "should be assisted in preparing National Adaptation Programs of Action (NAPAs) to address urgent and immediate needs and concerns related to adaptation to the adverse effects of climate change." The COP also requested the Global Environment Facility (GEF) to provide funding for preparing NAPAs as the first activity supported by the LDC Fund (which the COP had just established). The next month, the GEF Council authorized GEF support to LDCs for the preparation of NAPAs.

NAPAs seek to provide a basic framework for communicating "the urgent and immediate adaptation needs of the LDCs." The 7th COP recommended that NAPAs should be action-oriented, country-driven, and widely endorsed. To achieve this, the COP issued several recommendations regarding the process for preparing NAPAs. For example, NAPA teams should include Government and civil society, and the teams should "identify key climate-change adaptation measures, based, to the extent possible, on vulnerability and adaptation assessment." However, "if a State wishes to depart significantly from the process recommended by COP 7", the GEF will consider the reasons for the alternative process.

NAPAs also provide an avenue for linking issues associated with implementing the three Rio Conventions (CBD, UNCCD, and UNCCC).

The implementing agencies through which GEF will provide assistance are UNEP, UNDP, and the World Bank. Because NAPAs and initial national communications are closely interlinked, GEF recommends that a State keep the same agency for both. The preparations of NAPAs are expected to be completed within 12 to 18 months of the availability of funds, but it depends on each State's situation.

For more information, see http://www.gefweb.org/NAPA_guidelines_revised_April_2002_.pdf

Additional Resources On National Implementation Plans

Winston Anderson, "Domestic Programs for Implementing Multilateral Environmental Agreements: Establishing MEA Implementation Mechanisms," in Proceedings of the Sixth International Conference on Environmental Compliance and Enforcement Vol. 1 (INECE 2002), available at <http://www.inece.org/conf/proceedings/2/22-DomesticPrograms.pdf>

Implementation of Multilateral Environmental Agreements for Efficient Water Management (2005), by the Foundation for International Environmental Law and Development (FIELD) (examining how national implementation plans under various MEAs can provide guidance in designing and applying national water policies and promoting integrated water resource management).

See also the text and case studies following Guideline 21.

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Page number.

development; assistance in developing environmental laws; National Environmental Action Plans (NEAPs) and other planning processes; and other issues relating to legislative development.

- Note that there are three components of Guideline [40]: (1) clarity and notice; (2) feasibility; and (3) comprehensiveness with appropriate penalties.
- There are also checklists for cost-benefit analysis and for developing effective environmental regulations, permits, and licenses.

Example 2(b) Starting with a Particular Guideline (Guideline [41(b)], on Import and Export Controls)

- Looking through the table of contents (starting on page 6), note Guideline

Reporting, Monitoring, and Verification

[14] (c) Reporting, monitoring and verification: multilateral environmental agreements can include provisions for reporting, monitoring and verification of the information obtained on compliance. These provisions can help promote compliance by, *inter alia*, potentially increasing public awareness. Care should be taken to ensure that data collection and reporting requirements are not too onerous and are coordinated with those of other multilateral environmental agreements. Multilateral environmental agreements can include the following requirements:

(i) Reporting: Parties may be required to make regular, timely reports on compliance, using an appropriate common format. Simple and brief formats could be designed to ensure consistency, efficiency and convenience in order to enable reporting on specific obligations. Multilateral environmental agreement secretariats can consolidate responses received to assist in the assessment of compliance. Reporting on non-compliance can also be considered, and the parties can provide for timely review of such reports;

(ii) Monitoring: Monitoring involves the collection of data and in accordance with the provisions of a multilateral environmental agreement can be used to assess compliance with an agreement, identify compliance problems and indicate solutions. States that are negotiating provisions regarding monitoring in multilateral environmental agreements could consider the provisions in other multilateral environmental agreements related to monitoring;

(iii) Verification: This may involve verification of data and technical information in order to assist in ascertaining whether a party is in compliance and, in the event of non-compliance, the degree, type and frequency of non-compliance. The principal source of verification might be national reports. Consistent with the provisions in the multilateral environmental agreement and in accordance with any modalities that might be set by the conferences of the parties, technical verification could involve independent sources for corroborating national data and information.

MEAs can require that Parties monitor, report, and verify environmental compliance data. Reporting, monitoring, and verification measures can assist States in tracking their compliance under the respective MEAs. These requirements vary in formality and reporting methodologies. As technology has evolved, compliance-related information systems with computerised databases are increasingly used to collect, sort, and process this information (see, for example, the TIGERS database, described in a case study following Guideline 48(c)). The advantages of using compliance-related information systems include increased transparency, ease of data analysis and verification, and increased efficiency, organisation, and prompt compilation of data.

[48(c)]

Negotiating MEAs • COMPLIANCE WITH MEAs **129**

CHI - C

Explanatory text, expanding on the particular Guidelines and introducing the case studies.

Guideline numbers. Accompanied by text of Guidelines (Guidelines reproduced in full in Annex I).

Cross-reference to discussions in other parts of the Manual (in this case, following Guideline 48(c)).

[41(b)] (starting on page 200) which addresses import and export controls.

- Note that the explanatory text provides a brief discussion of monitoring trade in restricted substances and endangered species.
- There is a cross-reference to “international environmental crime” in Guideline [38].
- A text box discusses the UNEP handbook for customs officers for regulating ozone depleting substances (ODS).
- A second text box provides examples of efforts to control illegal trade in wildlife and ODS.
- A box includes a list of some additional resources.
- There is also a checklist of options for import and export control.

Introduction

This Manual seeks to promote and enhance effective implementation of Multilateral Environmental Agreements (MEAs). It has been developed to facilitate the use and application of the “Guidelines on Compliance with and Enforcement of Multilateral Environmental Agreements” (set forth in Annex I). The Guidelines were developed by the United Nations Environment Programme (UNEP), with the cooperation of more than 70 States and many other stakeholders. UNEP’s Governing Council (the body that directs and oversees UNEP’s work) approved these Guidelines at Cartagena in February 2002. In its decision adopting the Guidelines, the Governing Council called for UNEP “to take steps for advancing capacity-building and strengthening of developing countries, particularly the least developed countries, and countries with economies in transition, in accordance with the guidelines.” This Manual has been prepared to facilitate the use of the Guidelines and to promote their use according to this Governing Council decision.

Rationale

Over the past few decades, the number and scope of international environmental agreements have grown rapidly. It is estimated that there are 700 or more different international agreements that govern some aspect of the environment; and several more are being negotiated at the bilateral, regional, and global levels.

In many instances, States recognised an environmental problem, negotiated an MEA to address the problem, and then signed and ratified the MEA, without conducting a serious assessment of whether particular States actually have the financial, personnel, and technical resources to implement the MEA. Now, many States are faced with the challenge of implementing numerous MEAs with limited resources. In addition to scarce resources, politicians often need to be convinced of an MEA’s importance considering the other pressing priorities facing a developing country.

There are a number of modest measures that States and MEAs (through their Secretariats and Conferences of the Parties) can adopt to facilitate compliance with and enforcement of MEAs. The Guidelines and this Manual are designed to provide guidance on how to implement MEAs. Expanding upon the Guidelines, this Manual provides ideas, approaches, and experiences that Governments and other stakeholders may consider when seeking to improve compliance and enforcement. Governments have expressed particular interest in approaches designed to simplify MEA implementation — such as priority setting and MEA clustering — in countries with limited resources to implement MEAs.

The Guidelines and Manual have been informed by a variety of sources. These include regional guidelines on compliance and enforcement, experiences of MEAs in developing global mechanisms for compliance and enforcement, and decades of institutional experience at UNEP. UNEP has had a unique role in developing and implementing MEAs. UNEP has been involved in the development and negotiation of most MEAs. Moreover, UNEP has worked to implement MEAs at the national and regional level through initiatives such as the Partnership for Development of Environmental Laws and Institutions in Africa (PADELIA). In this context, UNEP has played a leading role in working with Governments and MEA Secretariats to promote compliance with and enforcement of MEAs.

Most regional guidelines relating to compliance and enforcement have a close relationship to the 2002 UNEP Guidelines. Some guidelines were adopted prior to 2002 and influenced the development of the UNEP Guidelines, while others drew their inspiration from the UNEP Guidelines. These various guidelines include, for example:

- 1999 Caribbean Guidelines for MEA Implementation <http://www.pnuma.org/foroalc/esp/bbexb07i-MEAImplementationintheCaribbean.pdf>
- 2002 Guiding Principles for Reform of Environmental Enforcement Authorities in Transition Economies of Eastern Europe, Caucasus and Central Asia (EECCA), developed by EECCA Member States and the Organisation for Economic Co-operation and Development (OECD) <http://www.oecd.org/dataoecd/36/51/26756552.pdf>
- 2003 Guidelines for Strengthening Compliance with and Implementation of Multilateral Environmental Agreements (MEAs) in the ECE (UN Economic Commission for Europe) Region <http://www.unece.org/env/documents/2003/ece/cep/ece.cep.107.e.pdf>

In addition, the Association of Southeast Asian Nations (ASEAN) has been developing mechanisms to promote compliance and enforcement of MEAs in the region. The North American Commission for Environmental Cooperation (NACEC) also has promoted compliance and enforcement through its North American Working Group on Environmental Enforcement and Compliance Cooperation. For example, in 2000, it produced Guidance Document on “Improving Environmental Performance and Compliance: 10 Elements of Effective Environmental Management Systems” <http://www.epa.gov/compliance/resources/policies/incentives/ems/cecguidedoc.pdf>

Nature and Scope of the UNEP Guidelines and Manual

The Manual elaborates upon the Guidelines, and profiles national and international experiences on compliance and enforcement in the context of implementing MEAs and national laws. The Guidelines and the Manual are non-binding and advisory in nature. There is no specific requirement to apply Guidelines or the Manual. Instead, the Guidelines and the Manual seek to facilitate the implementation of MEA commitments, which often are binding.

The Guidelines and the Manual are non-binding and advisory.

The Guidelines may be viewed as a “toolbox” of approaches for promoting implementation of MEAs. The Manual is a handbook explaining how the tools set forth in the Guidelines may be used. As such, the Manual is explanatory: it summarises and provides examples of various legal, policy, and institutional approaches to improve MEA implementation at different stages.

This Manual assumes a basic understanding of MEAs. For information on a specific MEA, please consult Annexes III and VII.

The Manual reflects the premises underlying the Guidelines that each MEA is unique and that the implementation situation of each Party is different. The Manual expands upon the compliance and enforcement guidance provided in the Guidelines through case studies, basic explanations and other implementation tools. Definitions and interpretations of the

text of the Guidelines are provided. There is no single way to use the Manual, and it is designed to serve as a reference for various actions related to compliance and enforcement.

The UNEP Guidelines and the Manual complement regional guidelines, manuals developed by MEA Secretariats, and other guidance. In many cases, a user of this Manual may also wish to consider other guidelines, manuals, and guidance to identify approaches. For example, if someone is wishing to improve compliance with and enforcement of CITES in a Caribbean nation, they could consult the 1999 Caribbean Guidelines (which provide a specific regional perspective on compliance and enforcement), the CITES handbook (which provides relevant legal texts and decisions of the Conference of the Parties that explain how to implement CITES), and the UNEP Guidelines and Manual (which highlight a broad range of experiences that may provide models for compliance and enforcement in this particular instance). Some of these guidance documents are advisory, but they can provide insight and models upon which to develop new approaches or modify existing approaches to improve compliance and enforcement.

Thus, the UNEP Guidelines and Manual usually will be more general, while the regional guidelines and MEA guidance will be more specific. All the guidance materials provide informative references; some may be more applicable or detailed than others, but all of them may have innovative approaches that could be relevant.

As the title of this Manual suggests, the Manual provides guidance on how to better implement MEAs (including the development of MEAs that can be implemented). The Manual assumes that there is a basic understanding of a specific MEA. Those looking for detailed information on specific MEAs should consult Annexes III and VII.

This Manual includes numerous case studies on compliance and enforcement. In many instances, these case studies represent innovative ideas and approaches; while in other instances the case studies illustrate well-established approaches. The Manual often, but not always, distinguishes whether a particular case study is innovative or illustrative. The reader is encouraged to focus on how a particular approach may assist in promoting compliance and enforcement (regardless of whether the approach in a particular case study is unique or shared, for a specific MEA or applied generally to many MEAs, or applied to one MEA or another).

The Guidelines

The Guidelines are a practical response of the international community for enhancing the effective implementation of MEAs and related national laws (see Annex II). The Guidelines evolved from a wide-ranging consultative process, which included the convening of an intergovernmental working group of experts at Nairobi on 22-26 October 2001, to which all States were invited. The working group, in which 78 States participated, approved the Guidelines and recommended them for adoption by the UNEP Governing Council.

The Guidelines address present and future MEAs that cover a range of issues, including global environmental protection, management of hazardous substances and chemicals, prevention and control of pollution, desertification, conservation of natural

In the Guidelines and the Manual, "compliance" generally applies to the international context, and "enforcement" generally applies to the national context.

resources, biodiversity, wildlife, and environmental safety and health. The Guidelines outline actions and measures for strengthening national enforcement and international cooperation in combating violations of laws implementing MEAs. They emphasise the need for laws and institutions, particularly those necessary to support effective enforcement and pursue actions to deter and respond to environmental law violations and crimes.

The Guidelines intend to inform and improve the manner in which Parties implement their obligations under MEAs. The Guidelines recognise the independent legal status of each MEA, and that the most appropriate implementation mechanisms and procedures will depend on the particular MEA and State in question. The Guidelines have been developed to remedy shortcomings in compliance that are common in many situations, despite expanded national implementing legislation.

The purpose of the Guidelines is to assist Governments and MEA secretariats, relevant international, regional and subregional organizations, national enforcement agencies, NGOs, the private sector and other stakeholders in enhancing and supporting implementation of MEAs. Simultaneously, the Guidelines acknowledge that Parties to agreements are best situated to determine the approaches for carrying out MEA obligations. The Guidelines also advocate consideration of compliance issues at the design and negotiation stage, as well as after the entry into force of MEAs. The Guidelines address situations where:

- national legislation may be lacking;
- there is a lack of awareness of the relevant regulations, including among industry, consumers, or enforcement authorities;
- costs of compliance create a financial incentive for evasion;
- there are inadequate penalties;
- there are difficulties with detection;
- there is a dearth of resources and technical capability;
- information and economic expertise may be lacking; and/or
- there are shortcomings in transboundary cooperation and monitoring.

Structure of the Guidelines

There are three parts to the Guidelines. The opening part, or introduction, recalls the basis of preparing the Guidelines. It notes the advisory and non-binding nature of the Guidelines, stating that the Guidelines in no way affect or alter the obligations in MEAs. Insofar as the Guidelines are concerned, “compliance” refers to the extent of fulfilment by a State of its obligations under an MEA, i.e., whether it is in compliance or not. In other words, “compliance” is generally used in an international context, and “enforcement” is generally used in a national one.

Following the introductory part, Chapter I of the Guidelines deals with enhancing compliance with MEAs. Chapter I defines “compliance” in terms of obligations under an MEA. “Implementation”, in Chapter I, means enacting and promulgating relevant laws, regulations, policies, and other measures and initiatives necessary for Parties to meet their obligations under an MEA.

Chapter I touches upon the preparatory work required before negotiations, assessment of domestic capabilities during negotiations, review of effectiveness, compliance mechanisms after an MEA comes into effect and dispute settlement provisions. This chapter also addresses national implementation, which includes a variety of possible national measures. Capacity building and technology transfer are also emphasised.

Chapter II deals with the national enforcement of laws implementing MEAs. In this chapter, “enforcement” refers to the range of procedures and actions employed by a State, its competent authorities, and its agencies to ensure that organisations or persons can be brought or returned into compliance and/or punished through civil, administrative, or criminal action.

Enforcement encompasses a set of actions — such as adopting laws and regulations, monitoring outcomes, and including various enabling activities and steps — that a State may take within its national territory to ensure implementation of an MEA. The Guidelines emphasise the need for consistency in laws and regulations, as well as cooperation in judicial proceedings.

Chapter II addresses national laws and regulations, institutional frameworks, national coordination, training to enhance enforcement capabilities, and public environmental awareness. Issues associated with strengthening of institutional frameworks include the designation of responsibilities to agencies and clear authority for carrying out enforcement activities. Capacity building and strengthening include coordinated technical and financial assistance to develop and maintain institutions, programmes and action plans for enforcement.

Compliance

The guidance on compliance addresses:

- (1) the significance of **preparatory work**, including:
 - (a) regular exchange of information among States,
 - (b) consultations,
 - (c) experience sharing,
 - (d) coordination at national level, and
 - (e) synergies with existing MEAs;
- (2) effective **participation in negotiations**, including:
 - (a) assessment of the geographical scope of the environmental problem being addressed;
 - (b) identification of States for which the environmental problem may be particularly relevant;
 - (c) establishment of special funds and other appropriate mechanisms to facilitate participation;
 - (d) approaches, such as common but differentiated responsibilities, framework agreements, or limiting the scope of MEAs to subject areas with relatively more likelihood of agreement;
- (3) **assessment of domestic capabilities** during negotiations, as well as regular review of the overall implementation of obligations under an MEA, and examination

of specific difficulties in compliance and consideration of measures aimed at improving compliance;

- (4) the need to **enhance compliance** through:
 - (a) clarity in stating obligations in MEAs;
 - (b) national implementation plans, including monitoring and evaluation of environmental improvement;
 - (c) reporting, monitoring and verification;
 - (d) establishment of a compliance committee with appropriate expertise; and
 - (e) inclusion of compliance provisions and mechanisms;
- (5) **regular review of MEA** effectiveness in meeting objectives;
- (6) introduction of **compliance mechanisms** after the entry into force of an MEA;
- (7) **dispute settlement** provisions;
- (8) **national implementation measures**, to include:
 - (a) compliance assessment,
 - (b) compliance plan,
 - (c) appropriate laws and regulatory framework,
 - (d) national implementation plans,
 - (e) enforcement frameworks and programmes,
 - (f) economic instruments,
 - (g) identification of national focal points,
 - (h) coordination among national departments,
 - (i) enhancing efficacy of national institutions,
 - (j) cooperation of major stakeholders,
 - (k) dialogue with local communities,
 - (l) role of women and youth,
 - (m) media,
 - (n) public awareness, and
 - (o) access to administrative and judicial proceedings;
- (9) **capacity building** and strengthening, including financial and technical assistance for environmental management;
- (10) **technology transfer**, which should be consistent with the needs, strategies, and priorities of the State concerned and which can build upon similar activities already undertaken by national institutions or with support from multilateral or bilateral organisations; and
- (11) **international cooperation**.

Enforcement

The guidance on enforcement addresses:

- (1) **national laws and regulations** that are:
 - (a) clearly stated with well-defined objectives;
 - (b) technically, economically and socially feasible to implement;

- (c) capable of being monitored effectively, with objectively quantifiable standards to ensure consistency, transparency and fairness in enforcement, and
 - (d) comprehensive with appropriate penalties for environmental law violations;
- (2) conducive ***institutional frameworks*** that promote:
 - (a) designation of responsibilities to agencies for enforcing laws and regulations, monitoring and evaluation of implementation;
 - (b) collection, reporting and analysis of data, including its qualitative and quantitative verification and provision of information about investigations;
 - (c) assistance to courts, tribunals and other related agencies;
 - (d) coordination among agencies; (e) strengthening of national environmental crime units;
 - (f) certification systems;
 - (g) public access to administrative and judicial procedures, and environmental information; and
 - (h) review of adequacy of laws and regulations;
 - (3) national ***coordination*** among relevant authorities and agencies, including environmental authorities, tax, customs and other relevant officials at different levels of government, linkages at the field level among cross-agency task forces and liaison points, as well as coordination among authorities for promoting licensing systems to regulate the import and export of illicit substances and hazardous materials;
 - (4) ***training*** for enhancing enforcement capabilities, including for public prosecutors, magistrates, environmental enforcement personnel, customs officials, and others pertaining to civil, criminal, and administrative matters, including training that promotes common understanding among regulators, enforcement personnel, and other agencies, as well as development of capabilities to coordinate action among agencies domestically and internationally;
 - (5) ***environmental awareness and education***, particularly among targeted groups, about relevant laws and regulations, rights, interests, and duties, as well as the social, environmental, and economic consequences of non-compliance, and encouragement of public involvement in monitoring of compliance;
 - (6) ***consistency in laws and regulations*** that provide appropriate deterrent measures, including penalties, environmental restitution and procedures for confiscation of equipment, goods and contraband, and for disposal of confiscated materials, and the setting up of appropriate authorities to make environmental crime punishable by criminal sanction;
 - (7) ***cooperation in judicial proceedings*** related to testimony and evidence, including exchange of information, mutual legal assistance and other co-operative arrangements agreed between the concerned States, and developing appropriate channels of communication;
 - (8) ***international cooperation and coordination*** by establishment of communication

channels and information exchange among UNEP, MEA secretariats, and relevant organisations, as well as for developing infrastructure to control borders and protect against illegal trade, including tracking and information systems, as well as measures that could lead to identification of illegal shipments and prosecutions; and

- (9) **capacity building** and strengthening to formulate effective laws and regulations and develop institutions, programmes and action plans for enforcement, monitoring, and evaluation of national laws implementing MEAs.

Development and Review of the Manual

Following adoption of the Guidelines and a mandate from the UNEP GC “to take steps for advancing capacity-building and strengthening of developing countries . . . in accordance with the guidelines,” UNEP researched and developed a draft Manual that expanded upon the Guidelines with explanatory text and illustrative examples. This draft Manual is now in the process of undergoing external review through a series of regional workshops on compliance with and enforcement of MEAs. Following each workshop, UNEP will revise the Manual — as appropriate — to incorporate new examples as well as other comments and suggestions.

The first workshop was for the Asia Pacific Region, and it was held 14-19 September 2003 in Colombo, Sri Lanka. Approximately 50 government representatives from 18 States participated, along with about a dozen resource persons. As a result of this workshop, UNEP restructured the draft Manual to integrate what had been a separate chapter on international coordination and cooperation into the two chapters on compliance and enforcement. This new format follows the structure of the Guidelines more closely. The Manual was also revised to incorporate many of the examples discussed during the workshop. This workshop also highlighted a number of themes, including the importance of capacity building, the local applicability and adaptability of technology transfer, the need for simplified procedures, international cooperation and financing that reflects the priorities of developing countries as well as developed countries, collective compliance, common but differentiated responsibilities, and attention to a wide range of conventions.

The second workshop, for the English-speaking Caribbean, was held 20-23 October 2003 in Kingston, Jamaica. Approximately 45 government representatives from 13 States participated, in addition to a dozen resource persons from the region, MEA secretariats, and international organisations. This workshop was particularly valuable in gaining experiences and perspectives of small island developing states that could be included in the Manual. Following comments received at the workshop — and echoing comments from the first regional workshop — UNEP redesigned the Manual from a table format to its current commentary format. The third workshop, for South East Europe, was held 26-29 January 2004 in Belgrade, Serbia. Approximately 35 government and non-government representatives from six States participated, in addition to resource persons from the region, MEA secretariats, and international organisations. The workshop highlighted additional examples for inclusion in the Manual, as well as some specific proposals for improving the usability of the Manual.

The fourth workshop, for Anglophone Africa, was held 1-4 March 2004 in Nairobi, Kenya. Approximately 65 government and non-government representatives from 23 States participated, as well as approximately a dozen resource persons. This workshop provided

additional case studies, highlighted areas in the text that would benefit from expansion and clarification, and yielded a few more ways to improve organisational aspects of the Manual.

The fifth workshop, for Eastern Europe, Caucasus, and Central Asia (EECCA), was held 22-25 March 2004 in Kyiv, Ukraine. Approximately 39 government and non-government representatives from 13 States participated, as well as 12 resource persons. This workshop provided additional case studies, this time from nations with economies in transition. It also highlighted places in the Manual where more checklists could be added and explanatory text could be expanded or clarified.

The draft Manual also benefited from dissemination and review in other workshops. These included meetings, workshops, seminars, training courses, and other events throughout Africa, Asia and the Pacific, the Americas, and Europe in 2003, 2004, and 2005.

Following the five regional workshops, UNEP conducted a significant review and edit of the draft Manual. UNEP reviewed the various experiences, case studies, and comments received in the regional workshops and identified some of the more innovative or representative examples to be included in the Manual. The revision also included more case studies from the MEA Secretariats and other relevant institutions, as well as expanded explanatory text that incorporates comments received from the workshops, as well as from Secretariats, MEA experts, and other sources. This significant review was completed in November 2004. Subsequently, the draft Manual was translated into Spanish, Arabic, and French for the final three regional workshops in:

- Spanish- and Portuguese-speaking Latin America and Caribbean (Mexico City, Mexico; 7-10 March 2005), including 42 participants from 17 States, as well as 14 resource persons;
- Arabic-speaking West Asia (Damascus, Syria; 2-5 May 2005), including 49 participants from 11 States, as well as eight participants from regional organisations and 11 resource persons; and
- Francophone Africa (Yaounde, Cameroon, 9-12 May 2005), including 70 participants from 23 States, as well as 10 resource persons.

The final three regional workshops highlighted the strides that UNEP had made in editing and refining the Manual. Most of the comments in the final three workshops highlighted additional case studies to be included in the Manual to ensure regional balance. Additional comments addressed specific details in explanatory text and translation concerns. Participants also suggested the need for a glossary of terms to complement the list of acronyms. Such a glossary is included as Annex X.

Through the eight workshops, approximately 400 participants from 124 developing countries and countries with economies in transition reviewed and commented on the drafts of the Manual. These participants include attorneys, inspectors, Police, policy makers, and other staff at Ministries of Environment, Foreign Affairs, Agriculture, and other Ministries, as well as customs officers, Members of Parliament, Police, NGOs, and others. In addition, approximately 100 resource persons from MEA Secretariats, regional institutions,

multilateral development banks, universities, and other institutions lent their expertise to the Manual. Moreover, attorneys, professors, customs officers, policy makers, and other staff and experts from a variety of developed countries contributed case studies, suggestions, and comments to the Manual.

Following the final three UNEP regional workshops, as well as soliciting feedback from other venues, the Manual was finalized taking into account the case studies and comments from the workshops. UNEP intends to translate it from English into the other five official languages of the United Nations and widely disseminate the Manual.

Chapter I

Compliance With MEAs

Compliance guidelines - explanatory notes and examples

Note to Users: The introductory paragraphs of the Guidelines (Guidelines 1-4) address the history and the general nature of the Guidelines. This is considered in more detail in the "Overview and Introduction" of this Manual, above, as well as the "Background Note on Development of the Guidelines" in Annex II, below.

This Chapter of the Manual focuses on the international aspects of compliance and enforcement. It is divided into five subsections:

- Background on Compliance
- Preparing for Negotiations
- Negotiating MEAs
- National Measures to Implement MEAs
- International Cooperation and Coordination in Compliance

Since many of the tools in the subsection on national measures are also included in the enforcement Chapter, the Manual seeks to limit any potential redundancies by including the full discussion of most of these tools in the next Chapter. Nevertheless, people who are interested in compliance issues (including negotiators) should at least be familiar with the range of national measures that a State may utilise in order to comply with the commitments of an MEA.

This Chapter seeks to assist Governments, MEA Secretariats, and other relevant parties in enhancing and supporting compliance with MEAs. The guidelines relating to negotiations and preparation for negotiations are intended to facilitate consideration of compliance issues at the initial stage (i.e., negotiations) as well as once an MEA has entered into force (through the meetings and conferences of the parties).

As noted earlier, the Manual recognises that each MEA is unique. They have been negotiated separately, have different parties, and enjoy their own separate, independent legal status. Experience has shown, though, that measures to implement one MEA can inform the development of measures to implement other MEAs. Lessons can be learned, and approaches can be adapted to other contexts. Accordingly, the approaches for preparing to negotiate, negotiating, and promoting compliance with MEAs that are outlined in this Chapter are relevant to a wide range of existing MEAs, as well as MEAs yet to come, that address a broad range of environmental issues.

Before delving into the guidelines, this introduction addresses two general issues. First, it highlights a number of benefits associated with complying with MEAs. Second, it provides a brief primer on negotiation and ratification of MEAs.

Assessing Benefits and Costs of Ratifying, Complying with, and Enforcing MEAs

With many countries emphasising economic development, it is often necessary to “make the case” for MEAs. Certain governmental decisionmakers may need to be convinced to negotiate and ratify MEAs; parliamentarians may need to be persuaded that implementing legislation is a priority; governmental authorities might need to be spurred to enforce environmental laws that could have economic implications; and it facilitates compliance if the regulated community and the general public understands the basic imperative for the MEA and the implementing legislation.

The key benefits of an MEA are usually environmental, but may also be economic, socio-political (e.g., empowering the public to become involved), and administrative. The clearest benefits of any particular MEA usually relate to the specific goals of that MEA. Thus, CITES seeks to ensure that no wildlife species becomes or remains subject to unsustainable exploitation through international trade, but it also allows legitimate trade and scientific research; the Basel Convention seeks to protect human health and the environment from illegal transboundary movements and disposal of hazardous waste; and so forth.

In addition to these MEA-specific benefits, there are some general benefits of ratifying, implementing, complying with, and enforcing MEAs — and costs associated with not complying:

- *Protecting Public Health and the Environment:* MEAs have a range of environmental and public health benefits, the specifics of which vary from MEA to MEA and State to State. These benefits tend to be both short- and long-term.
- *Improving Governance:* In addition to providing substantive norms of environmental protection, many MEAs improve environmental governance, as well as generally promoting transparency, participatory decisionmaking, accountability, and conflict resolution. Moreover, MEAs often seek to avoid or limit resource-driven conflicts by promoting equitable arrangements, for example regarding access to fresh water within an international watercourse basin.
- *International Political Comity and Respect:* Most MEAs address environmental and public health challenges that are shared by many nations. Many nations contribute to the problem, and many suffer the consequences. Sometimes, they are the same nations; sometimes, the States causing the harm are different from those most affected. In most instances, it is necessary for the international community to unite to find a solution to the challenge. Those States who do not engage in a dialogue on the problem in good faith — or who engage, but do not undertake good faith efforts to ratify, implement, and enforce the MEA — risk international criticism. This criticism can undermine the State’s credibility and erode the willingness of States to take action on other, unrelated matters such as trade, development, security, or social issues.

- *Solidarity*: States may wish to become a party to an MEA to support other States in the environmental challenges they face. In such instances, the particular goals of the MEA might be noble, worthy, and of great importance to other States (for example in the same region), but may be a lower domestic priority.
- *Financial Assistance*: Often, a State needs to be a party to an MEA in order to access funding from the MEA Secretariat, multilateral sources (such as the GEF), and certain bilateral sources. Moreover, if a State is not complying with an MEA, this could jeopardise existing funding.
- *Technical Assistance and Networking*: In addition to financial assistance, MEAs often facilitate technical assistance, for example through technology transfer. Additionally, MEA Secretariats often build capacity of governmental authorities to implement the MEA by fostering regional and global networks through which members share experiences.
- *Long-term Economic Benefits*: Analyses by the OECD, the World Bank, and others indicate that in many instances it is economically preferable to develop within the context of environmental regulation. Otherwise, States frequently have had to make large expenditures to redress environmental and public health consequences of environmental neglect. Thus, while the priority of many States may be on development, participation in MEAs can enhance the long-term sustainability of development initiatives. In addition, to the extent that MEAs contribute to a State's ability to address environmental issues earlier rather than later, the result may be a cost-reduction in the long-term since it is often less expensive to prevent environmental harm than to address that harm after the fact.
- *Trade*: In certain instances, MEAs contain provisions that impose obligations on Parties vis-à-vis their trade with non-Parties. The Montreal Protocol and CITES are examples of MEAs containing MEAs of this type.
- *Facilitating Changes in Domestic Environmental Law*: While environmental problems may be evident, a Government or Parliament may be reluctant to develop the necessary laws and institutions to address the problems. Environmental concerns may be viewed as "secondary," or the State might not want to put domestic businesses at a competitive disadvantage. In this context, an MEA can elevate the international importance of a particular environmental problem, providing additional political motivation domestically (as well as internationally) to address the problem. Moreover, the specific provisions of the MEA can provide a common, basic framework for the State to follow in developing measures to address the problem. Such a common framework could help to ameliorate concerns of competitive disadvantage, and thereby facilitate domestic legislative development.

States have developed a range of procedures for deciding whether and how to become a party to international agreements (including MEAs). Two examples are set forth below. To some extent the various considerations set forth above can factor into such processes, although it is often done on an informal basis.



LEGAL FRAMEWORK ESTABLISHING PROCEDURES FOR MEAs IN THE REPUBLIC OF UZBEKISTAN

The basic legal document establishing the procedures governing the conclusion, performance, suspending, and denouncement of international agreements in the Republic of Uzbekistan is Law No. 172-1 "Regarding the International Agreements of the Republic of Uzbekistan", adopted 22 December 1995. This law addressed a gap that had existed since independence in late 1991.

Under the law, decisions regarding negotiation and signature of MEAs (and other international agreements) are made by different authorities, depending on the character of the agreement. The law also sets forth procedures for implementing international agreements, including the definition of the responsible ministries, departments, and officials. According to this law, when it is necessary to adopt a law implementing an MEA (or any other international agreement), the appropriate line ministries and departments jointly with the Ministry of Justice and the Ministry for Foreign Affairs introduce proposed legislation.

Under Uzbek law, MEAs and other international agreements enjoy a high status in the hierarchy of laws. The Constitution of Uzbekistan confers a priority on conventional norms of international law. Additionally, most national laws apply a standard approach regarding potential conflicts between national laws and regulations and international agreements: "if the international agreement establishes other rules, than what are stipulated ... by the present legal rules, the rules of the international agreement are applied."

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In addition to these general frameworks for analysing MEAs, States are starting to develop a range of analytical tools and institutional mechanisms for assessing the potential benefits (and costs) of an MEA in more detail. As described in the case studies below, this has been on an ad hoc basis in many States:



SEYCHELLES' COST-BENEFIT ASSESSMENT FOR ACCEDING TO THE BONN CONVENTION

Seychelles is a hotspot for biological diversity, with numerous endemic species as well as some migratory species. Seychelles was already a party to the Convention on Biological Diversity, and the Government was not sure how much accession to the Bonn Convention on the Conservation of Migratory species (CMS) would assist in conserving the country's unique biological heritage.

Seychelles' Cost-Benefit Assessment for Acceding to the Bonn Convention (cont'd)

To assist in identifying the implications of accession, the CMS Secretariat contracted with a local consultant to assess the benefits and costs associated with acceding to the Convention. Unfortunately, the report was never submitted to the Government of Seychelles. However, the assessment ultimately was completed by the Ministry of Environment and Natural Resources, which made its own independent assessment. Based on the Ministry's assessment of the costs and benefits, the Ministry has recommended to the Government that Seychelles accede to the CMS.

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MEA RATIFICATION IN BHUTAN

When considering whether to ratify or accede to an international agreement (whether it is a convention, treaty, protocol, or other similar instrument), Bhutan considers a number of factors:

- The benefits to the State generally of becoming a Party;
- The benefits to specific sectors, such as environment, public health, etc.;
- Whether Bhutan believes that it can fulfil the agreement's obligations; and
- International comity and a desire to cooperate with nations that consider the agreement a high priority.

Once there is a decision that these factors weigh in favor of becoming a Party, the ratification process is fairly straight-forward but at the same time it can be long. The ratification process entails a series of steps, which include:

1. The Ministry of Foreign Affairs requests the designated agency to conduct a study on the particular agreement(s) in question (for environmental agreements, this is the National Environment Commission Secretariat).
2. After studying the agreement(s), the designated agency issues its recommendation. If it recommends ratification, it submits its study (in both English and the official national language of Dzongkha) to the Council of Ministers for their approval.
3. If it approves ratification, the Council of Ministers instructs the designated agency to submit the agreement(s) to the National Assembly. During a National Assembly meeting, the designated agency explains the reasons why Bhutan should ratify the agreement.
4. If the National Assembly agrees, the agreement is ratified.

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COST-BENEFIT ANALYSIS OF RATIFYING THE KYOTO PROTOCOL IN SRI LANKA

When Sri Lanka was considering whether to ratify the Kyoto Protocol, public opinion was split. To build public awareness of the Protocol's importance and to identify public concerns, the government initiated a series of public consultation meetings. At these consultations, they found that they did not have the answers to questions regarding the potential costs and benefits of the Protocol to Sri Lanka. People also asked about resources for implementation, such as the Clean Development Mechanism. Some questioned whether the Protocol would intrude upon the sovereignty of the State or how it might affect Sri Lanka's development agenda.

To address the numerous questions about the potential costs and benefits of ratification, the government hired a Sri Lankan consultant. The Government asked him to develop an assessment of whether Sri Lanka should ratify the Protocol, and the answer was to be supported by an analysis of the costs and benefits of ratification.

In 1999, the consultants completed their study, which recommended ratification. At this point, the Government held a series of 5 or 6 public meetings in Colombo to review and discuss the findings. These public meetings raised public awareness of the benefits and costs to Sri Lanka from ratification of the Protocol.

In preparing the Cabinet paper, seeking approval from the Cabinet to ratify the Kyoto Protocol, the Government relied significantly on the cost-benefit analysis of the consultants, as well as the public consultations. This heavily analytic approach, which also emphasized public consultation, was the first time that Sri Lanka had conducted a cost-benefit analysis of the implications of ratifying an MEA. Ultimately, Sri Lanka ratified the Protocol in 2002. The three years that it took to ratify the Protocol may be attributed in large part to the controversy regarding ratification of the particular MEA. In this context, the cost-benefit analysis provided an independent assessment of the potential implications of ratification and helped to address most of the concerns raised by the public.

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CROATIA'S COST-BENEFIT ANALYSIS FOR RATIFYING THE AARHUS CONVENTION

In deciding whether to ratify the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (the Aarhus Convention) – and the extent to which the State should implement the Convention's various provisions – the Republic of Croatia undertook a cost-benefit analysis of three implementation scenarios:

- the fullest implementation of the Convention, which was the most demanding (the "upper" scenario);
- minimal implementation of the Convention, which was the least demanding (the "lower" scenario); and
- a middle approach that included implementation measures midway between the upper and lower scenarios (the "medium" scenario).

These three scenarios were formulated by the project team, consisting of the Department for Resource Economics and Environmental Policy of the Croatian Institute for International Relations (<http://www.imo.hr>) in cooperation with COWI (<http://www.cowi.dk>). It was undertaken as part of a project on "Implementation of the Aarhus Convention in Croatia (2001-2002)," under the auspices of the Danish Environmental Agency, Division for Central and Eastern Europe.

The consultants' final report indicated that the costs of implementing the Aarhus Convention would not be very high since the Republic of Croatia had already fulfilled many of the Convention's obligations. Accordingly, the report suggested that the Republic of Croatia should choose either the upper or medium scenario to properly fulfill all the obligations of the Convention.

The Government has been reviewing the recommendations of the report. There are two particularly challenging aspects to the assessment. The most demanding question was how to motivate regions and local administrative units to implement activities envisaged under the upper and medium scenarios, which local authorities might not consider obligatory. Second, the third pillar of the Convention (on access to justice) was also challenging to implement in the Republic of Croatia. As of 2006, the Republic of Croatia has not yet ratified the Aarhus Convention.

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At this point, it bears reiteration that when considering whether to become a party to an MEA, a State should consider not only the obligations and implications of an MEA, but also whether the MEA is relevant to that State. In more than one case, a State has become Party to an MEA out of solidarity for other States (particularly in a region) when the MEA actually was not relevant to their context. In such a situation, the State then has to divert scarce resources to develop implementing legislation that is irrelevant, and they have an ongoing obligation to develop and submit national reports. One way to determine whether

an MEA is relevant to the State is to refer to existing national documents, such as the National Environmental Action Plan or Policy and the National Environmental Statute. If these documents do not identify the particular issue as a priority that could raise questions regarding the relevance of the MEA to that particular State.

While cost-benefit analysis can be a useful tool, it has its limitations. The discussion following Guideline 40 highlights some of these limitations.



[40]

As a practical matter, experience has shown that simply adopting an MEA is not sufficient to solve domestic or international environmental problems. In order for MEAs to be effective, States need to focus their efforts at three stages: preparing for negotiations, negotiations of the text, and implementation.

- Because there is no automatic guarantee that the provisions of an international agreement will meet the domestic needs of any particular State, it is indispensable for each State to adopt a proactive attitude at negotiations in order for the negotiations to account for national needs, constraints, and ultimately the national position. Accordingly, the next subsection of the Manual addresses preparation for negotiations, and the subsequent discussion on negotiations also offers some strategies for States seeking to advance their positions during negotiations.
- Note: While cost-benefit analysis can be a valuable tool, it does have some methodological limitations.
- The negotiation stage also presents opportunities for States to include various provisions in an MEA to facilitate and encourage compliance and enforcement during the operational life of the MEA.
 - Finally, in order for an MEA to have impacts on the ground, legislation, administrative measures, and capacity building for implementation and enforcement at the local and national levels are essential. The final subsection of the Compliance Chapter addresses these measures, as well as a more in-depth treatment in the Enforcement Chapter.

Primer on Negotiating and Ratifying MEAs

The following few pages provide a basic primer on negotiating and ratifying MEAs. Those familiar with MEA processes may wish to skip to the discussion of the Guidelines, following the primer. This primer includes a brief overview of the process for negotiating, ratifying, and operationalising MEAs and defines some of the key terms. The analysis is organised by a series of basic questions regarding the nature, procedures, and implications of MEAs.

NOTE: This primer is intended to assist in defining generic terms and concepts. While some generalities about the MEA process may be drawn, each MEA is unique and each State approaches MEAs in their own particular manner.

What is an MEA?

The term “Multilateral Environmental Agreement” or MEA is a broad term that relates to any of a number of legally binding international instruments through which national Governments commit to achieving specific environmental goals. These agreements may take different forms, such as “convention,” “treaty,” “agreement,” “charter,” “final act,” “pact,” “accord,” “covenant,” “protocol,” or “constitution” (for an international organisation). The 1969 Vienna Convention on the Law of Treaties defines a “treaty” as “an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation.” As a practical matter, though, “treaty,” “convention,” and “agreement” are often used interchangeably. An amendment is a formal alteration of the treaty provisions affecting the parties to a particular agreement.

MEAs may be between two States, in which case they are usually termed “bilateral.” However, most MEAs are between three or more States, and thus “**multilateral.**” [For the purposes of this Manual, MEA includes bilateral agreements.]

As a principle of international law, MEAs (as with other international agreements) usually bind only those States who have agreed to be bound by the MEA. However, an MEA can affect non-Parties, for example by prohibiting or restricting trade by Parties with non-Parties.

MEAs may be stand-alone documents that include all the relevant requirements, or they can be “**framework agreements**” for which further agreements (protocols) are necessary to provide the necessary standards, procedures, and other requirements to implement the MEA effectively (see discussion of Guideline 11(d) for more detail).



Other forms of MEAs may rely heavily on appendices (i.e., be “appendix-driven”). CITES and CMS are two examples of such MEAs. Appendix I of CITES includes species threatened with extinction, and international trade in these species is permitted only in exceptional circumstances. Appendix II of CITES includes species not necessarily threatened with extinction but in which trade must be controlled in order to avoid utilisation incompatible with their survival. Appendix III of CITES includes species that are protected in at least one State which has asked other CITES Parties for assistance in controlling the trade. For CMS, Appendix I includes those migratory species that are endangered with extinc-

tion (due to trade, habitat loss, by-catch, etc.) throughout much or all of their range; and Appendix II lists migratory species whose conservation would benefit significantly from international cooperation through tailored agreements.

MEAs can follow a variety of models, including command and control, responsive regulation, and advisory.

Most commentators exclude “**soft law**” from the scope of MEAs. Soft law documents include action plans (such as Agenda 21), codes of conduct, declarations, resolutions, policies, and other non-binding documents. [Complication arises when certain soft law documents are deemed to reflect customary international law, and thus are binding; but such cases are beyond the scope of this analysis.]

For more information, see <http://www.ll.georgetown.edu/intl/guides/treaty/> or <http://www.uoregon.edu/~rmitchel/iea/overview/definitions.htm>

What is the Process for Negotiating an MEA?

Once there has been a decision to negotiate an MEA, States endeavour to assess their needs and capacity. To the extent that they know about potential measures that could be included in the MEA, States try to identify the potential national implications of implementing and enforcing a new environmental regime at national level. Based on these assessments, States develop their national positions (ideally after having consulted the relevant stakeholders and governmental agencies) and designate their national delegations.

Many of the earlier MEAs were first elaborated by international working groups of legal and technical experts. More recent MEAs often have been negotiated by **Intergovernmental Negotiating Committees** (INCs). INCs bring together Governments, inter-governmental institutions, and non-governmental organisations, and they have the mission of drafting and adopting an MEA. The INC was introduced as a negotiating format on the occasion of the UNFCCC.

With the establishment of an INC, a secretariat is designated to manage the necessary administrative and logistical matters. This secretariat also typically drafts the first version of an agreement, which will serve as a basis for discussion and negotiation. For many MEAs, UNEP provided such a secretariat.

To ensure efficient negotiations, the negotiators begin by adopting rules of procedure that will govern them. These typically dictate the places and dates of the negotiating meetings, the agenda, the establishment of the presidium of the negotiating committee (Bureau), the language of the meetings, etc. In addition to these rules of procedure, there are a variety of other widely used negotiating mechanisms. In practice, the Bureau and its presiding officer — and the chief executive officer of the convening agency — play a large role in the success (or failure) of the negotiations. These individuals and institutions can keep negotiations moving and provide impulses where negotiations have stalled by expressing their personal stands on certain matters, proposing negotiating methods, consult informally with the relevant States, and undertake other similar measures.

How do States Commit to an MEA?

Once the final text of the agreement is established, it will typically be “adopted” by and “signed” at a diplomatic conference or a conference of plenipotentiaries. In practice, these conferences usually take place during the final stage of the negotiations; its actors and rules of procedure are usually similar to those of the negotiating sessions.

Signature of a treaty by a duly empowered representative of a State authenticates the text of the agreement as being the one finally agreed upon and sanctions its consent to the content of the negotiations. Signature may happen at the negotiating conference, at a final event opening the agreement for signature, or within a designated period after the agreement is opened for signature. While signature generally does not bind a State to the terms of the agreement, it does however declare an intention of the State to become a Party to the agreement and (under the 1969 Vienna Convention on the Law of Treaties) it indicates a commitment on the part of the State to “refrain from acts which would defeat the object and purpose” of the agreement.

A State is bound by an agreement when it becomes a **Party** to the agreement (in certain instances, non-State actors, such as the European Community and other regional economic integration organisations, can also become Party to an agreement). It can do so by ratifying, accepting, approving, or acceding to the convention. The 1969 Vienna Convention on the Law of Treaties defines “ratification,” “acceptance,” “approval,” and “accession” as “the international act so named whereby a State establishes on the international plane its consent to be bound by a treaty.” **Ratification** is the act by which the governmental authority empowered by a State’s constitution to conclude treaties (be it the legislature or the executive) confirms the treaty signed by the plenipotentiaries and consents for the State to be bound by it. **Acceptance** and **approval** are simplified versions of ratification, and they are generally used by States that do not provide explicitly for ratification. **Accession** is the means by which a State can become a Party to an agreement when it did not sign the treaty within the established period; and accession usually occurs after the agreement enters into force. The specific procedure by which any particular State becomes Party to an international agreement depends on the State, and is often set forth in the State’s Constitution. [The checklist before Guideline 18 provides more information on the process of becoming party to an MEA.]



When a State becomes Party to an agreement, it may (if the agreement allows) submit reservations or understandings that limit or interpret the terms of the agreement in a particular way.

In order for a State to become a Party, it must **deposit its instrument of ratification, acceptance, approval, or accession** with the institution serving as the depository. In certain instances, such instruments may be exchanged between the contracting states, or formal notification may serve in lieu of actually depositing the instrument. It is not uncommon for a State to have taken all the internal, national measures necessary to become a party . . . only to have the instrument of ratification fail to be deposited for an extended period of time (during which time the State is formally not a Party). Accordingly, it is recommended that the relevant State agency or ministry follow up to ensure that instruments of ratification are duly deposited.

What does it Mean to be a “Party” to an MEA?

The fundamental principle of international law is *pacta sunt servanda* (“agreements must be observed”). States generally are only bound by those agreements to which they agree to be bound. A State may become Party to an MEA for many reasons: because it is in the State’s best interest, because the State wants to be a responsible international actor, because it wants to access financial or technical resources, because other States encourage it, etc.

Regardless of the reason, once the State is a Party to an MEA, it is bound by the terms of the MEA. Typically, this includes both substantive provisions (to take certain measures to protect the environment) and procedural provisions (such as reporting, as described in Guideline [14(c)] A Party is required to fulfill all these obligations, and a



[14(c)]

State may have fulfilled all the substantive requirements of the MEA but still be declared to be in non-compliance because it has failed, for example, to submit its national report.

To implement an MEA’s requirements, States often have to adopt implementing legislation. In States with “**monist**” systems, once ratified an international agreement has the force of law within the State; while States with “**dualist**” systems require implementing legislation for the agreement to have legal effect. [Strictly speaking, until implementing legislation is passed, a dualist State has binding international obligations to other States but internally the MEA is not in effect.] In both cases, though, changes to national laws, standards, and institutions are often required to reflect the new commitments.

Some States require that their laws and institutions conform to the terms of an MEA before the State can become a Party to the agreement. Other States often become a Party to an agreement first, and then proceed with the legal and institutional reforms. Why would States pursue the latter course? While most MEAs provide for some form of technical or financial assistance to implement the MEA, such assistance often is given only to those States that are Parties to the MEA. There is a trend, reflected in the UNECE Guidelines for Strengthening Compliance with and Implementation of MEAs, to encourage States to have the necessary implementing measures in place when they become a Party. This way, new Parties are not simultaneously welcomed to the MEA and told that they are in non-compliance.

How do MEAs Function?

An international agreement “**enters into force**” when the terms for entry into force as specified in the agreement are met. This typically happens within a specified time (e.g., 30, 60, or 90 days) after a specified number of States (usually 20 percent to 30 percent of the Signatories) have ratified the agreement (or accepted/approved/adopted it, depending on national jurisdictions). Bilateral treaties usually enter into force when both parties agree to be bound.

Before an international agreement enters into force, the Signatories to the agreement may meet on a regular (e.g., once a year) basis in **Meetings of the Signatories** (MOS) to discuss ratification and implementation of the agreement. Once an agreement enters into force, the **Conference of the Parties** (COP) or **Meeting of the Parties** (MOP) becomes the body that is responsible for making the decisions regarding implementation and operation of the agreement. The COP or MOP consists of the nations who are Party to the Convention,

and it meets regularly (e.g., once every year, two years, or three years), as specified in the MEA. The **Secretariat** of an agreement may administer the agreement, but the COP or MOP makes the key decisions. In addition to the Secretariat, an MEA may provide for other bodies (such as a Subsidiary Body on Scientific, Technical and Technological Advice or SBSTTA) to assist in the administration and implementation of the MEA in-between the COPs or MOPs. Subsidiary bodies might also be established by the Conference of the Parties after the adoption of an MEA (such as the permanent committees of CITES).

To assess and track how effective an MEA is over time, periodic reviews may be conducted regarding the general operation of the MEA or focusing on specific aspects. Because MEAs often need to evolve over time, the existing international legal regime may need to be modified (for example to revisit responsive, voluntary provisions and make them binding obligations). Such modification can entail re-opening an MEA's text for negotiation. More often, the Parties develop new instruments (such as protocols) to strengthen the compliance with and enforcement of the old MEA regime. [See discussion of framework agreements following Guideline [11(d)].



[11(d)]

How do States Withdraw from an MEA?

Occasionally, a State may decide that it is no longer in its best interest to be a Party to an agreement. Where an agreement so provides, States can **withdraw** from (or **denounce**) the agreement. Where the agreement does not explicitly allow for withdrawal, a State can withdraw only if it can be shown that the States Parties intended to allow for withdrawal or a right of withdrawal may be implied from the nature of the agreement. Withdrawal or denunciation is an extreme step and it rarely happens. When it does, it frequently brings international condemnation. However, it is the prerogative of each State Party.

Article 19 of the 1985 Vienna Convention for the Protection of the Ozone Layer sets forth a standard approach to withdrawal:

1. At any time after four years from the date on which this Convention has entered into force for a Party, that Party may withdraw from the Convention by giving written notification to the Depositary.
2. Except as may be provided in any protocol, at any time after four years from the date on which such protocol has entered into force for a party, that party may withdraw from the protocol by giving written notification to the Depositary.
3. Any such withdrawal shall take effect upon expiry of one year after the date of its receipt by the Depositary, or on such later date as may be specified in the notification of the withdrawal.
4. Any Party which withdraws from this Convention shall be considered as also having withdrawn from any protocol to which it is party.

Most global and regional MEAs (including the UNFCCC/Kyoto Protocol, Basel Convention, CITES, and CBD) follow a similar approach to withdrawal. The primary differences are with respect to:

- the number of years a Party must wait after the entry into force of the agreement before it can denounce the agreement (generally ranging from 0 to 4 years); and

- the length of time it takes for a withdrawal to become effective after notification to the Depositary (usually up to one year, but almost never immediately).

Withdrawal is not necessarily permanent. For example, the United Arab Emirates withdrew from CITES and rejoined later.

As described below, in the case study on “State Succession and the Nyerere Doctrine,” new States (e.g., those emerging from colonialism) may elect not to recognise certain international commitments made by the colonial predecessor State. This is a special case, though, and it does not apply to changes in Government or even revisions to the Constitution.



STATE SUCCESSION AND THE NYERERE DOCTRINE

What happens when a new State emerges? Is it bound by the international commitments of its predecessor? There are a couple ways in which a new State can emerge, and these have potentially different implications. A State can become independent from a colonial power, entering the community of nations as a peer (as was common in the three decades following World War II). States can be created with the dissolution of a former State (for example with the Soviet Union, Yugoslavia, and Czechoslovakia). States can also be created by combining previously independent states.

When a new State emerges, the international law of **succession** applies. Succession provides that a new State inherits the international obligations that its predecessor had made. In the 1950s and 1960s, many African colonies achieved independence. While some followed the doctrine of succession (such as Nigeria), others followed the **Nyerere Doctrine** of selective succession to treaties. Julius Nyerere, the first President of Tanzania, considered that international agreements dating from colonial times should be renegotiated when a State becomes independent, as the nation should not be bound by something that the nation was not in a sovereign position to agree to at that time. According to this doctrine, a newly independent State can – upon independence – review the international treaties that it stands to inherit and decide which of the agreements it will accept and which it will repudiate. Although such an “optional” approach to events of State succession was not new and was already recognized by customary international law, Nyerere is recognized for the modern formulation of the optional doctrine of the law of State succession.

This “optional doctrine” is more refined than that of the *tabula rasa*, the classical doctrine of clean slate, under which a new State starts without any of the obligations of the predecessor State. Under the Nyerere Doctrine, this is only an assumption, as the doctrine does not rule out or prejudice the possibility or desirability of renewal (after a legal interruption during the succession) of commitments or agreements of mutual interest to the parties concerned. This doctrine however rejects any categorization of international obligations between those which the successor State would have to accept and those which it could reconsider. Nyerere also created a formula for the practical application of this doctrine, which provides for an interim reflection period during which some of the predecessor’s treaties apply provisionally while the successor chooses which treaties it will renew or renegotiate and which it will set aside.

Both the doctrine and the formula, with country-specific variations, served as a framework for State succession in East African States as well as for many other emerging developing countries. In most instances, predecessor States and third-party States have accepted – if not indeed supported – the application of the Nyerere Doctrine.

For more information, see (for example) State Succession and the New States of East Africa, by Yilma Makonne (1984).



Additional Materials on MEAs

For more information on the basics of MEAs, a good starting point is the 1969 Vienna Convention on the Law of Treaties (available at <http://www.un.org/law/ilc/texts/treaties.htm> or <http://fletcher.tufts.edu/multi/texts/BH538.txt>). In addition, there are numerous relevant reference materials:

Patricia W. Birnie & Alan E. Boyle, *International Law and the Environment* (Oxford University Press 2002).

Nicolas de Sadeleer, *Environmental Principles: From Political Slogans to Legal Rules* (Oxford University Press 2003).

Lakshman D. Guruswamy & Brent R. Hicks, *International Environmental Law in a Nutshell* (2nd ed.) (West Group 2003).

Lakshman D. Guruswamy, Burns H. Weston, Geoffrey W.R. Palmer, & Jonathan C. Carlson, *International Environmental Law and World Order: A Problem-Oriented Coursebook* (2nd ed.) (West Group 1999).

David Hunter, James Salzman, & Durwood Zaelke, *International Environmental Law and Policy* (2nd ed.) (Foundation Press 2002).

Andree Kirchner, *International Marine Environmental Law: Institutions, Implementation, and Innovations* (International Law Publications 2003).

Philippe Sands, *Principles of International Environmental Law* (2nd ed.) (Cambridge University Press 2003), as well as the companion *Documents in International Environmental Law* (2nd ed. 2004).

Marie-Claire Segger Cordonier & Ashfaq Khalfan, *Sustainable Development Law: Principles, Practices, and Prospects* (Oxford University Press 2004).

Alexandre Timoshenko, *Environmental Negotiator Handbook* (Kluwer Law International 2003) (described in more detail in a case study on "Negotiating Resources" following Guideline 11).

A. Background on Compliance

Purpose, Scope, and Definition of Terms Used in the Compliance Chapter

- [5] *Strengthening of compliance with multilateral environmental agreements has been identified as a key issue. These guidelines provide approaches to enhance compliance, recognizing that each agreement has been negotiated in a unique way and enjoys its own independent legal status. The guidelines acknowledge that compliance mechanisms and procedures should take account of the particular characteristics of the agreement in question.*
- [6] *The purpose of these guidelines is to assist Governments and secretariats of multilateral environmental agreements, relevant international, regional and subregional organizations, non-governmental organizations, private sector and all other relevant stakeholders in enhancing and supporting compliance with multilateral environmental agreements.*
- [7] *These guidelines are relevant to present and future multilateral environmental agreements, covering a broad range of environmental issues, including global environmental protection, management of hazardous substances and chemicals, prevention and control of pollution, desertification, management and conservation of natural resources, biodiversity, wildlife, and environmental safety and health, in particular human health.*
- [8] *The guidelines are intended to facilitate consideration of compliance issues at the design and negotiation stages and also after the entry into force of the multilateral environmental agreements, at conferences and meetings of the parties. The guidelines encourage effective approaches to compliance, outline strategies and measures to strengthen implementation of multilateral environmental agreements, through relevant laws and regulations, policies and other measures at the national level and guide subregional, regional and international cooperation in this regard.*
- [9] *For the purpose of this chapter of these guidelines:*
- *“Compliance” means the fulfilment by the contracting parties of their obligations under a multilateral environmental agreement and any amendments to the multilateral environmental agreement;*
 - *“Implementation” refers to, inter alia, all relevant laws, regulations, policies, and other measures and initiatives, that contracting parties adopt and/or take to meet their obligations under a multilateral environmental agreement and its amendments if any.*

The brief introductory section to the Compliance Chapter notes the flexible nature of the Guidelines and their intended purpose of assisting Governments and others in improving compliance with all MEAs, as discussed in more detail in the introductory section of this Manual. Paragraph 9 also provides two working definitions: the terms “compliance” is defined to mean the fulfillment by a Party (usually a State) of their obligations under an MEA, and the term “implementation” is defined to mean all laws, regulations, etc. that a Party adopts to achieve compliance under an MEA. The Guidelines also note that a different definition of the term “compliance” is provided under the Enforcement Chapter of the Guidelines, since the use of this term can differ, depending on the context.

While MEAs often use the terms “compliance,” “non-compliance,” and “implementation,” these terms are rarely defined in the actual text of an MEA. Sometimes, they may be defined by example in compliance guidelines, which illustrate what constitutes non-compliance. In practice, the definitions often are vague so as to reach consensus in negotiating an MEA and to maintain flexibility in evolution of an MEA. In developing the definitions, UNEP consulted with the MEA Secretariats and numerous States who are State Parties to various MEAs. Accordingly, the flexible definitions presented here and in Guideline 38 are designed to be consistent with international definitions (to the extent they exist) and usages.

B. Preparing for Negotiations

[10] *Facilitate compliance with multilateral environmental agreements, preparatory work for negotiations may be assisted by the following actions:*

- (a) Regular exchange of information among States, including through the establishment of forums, on environmental issues that are the subject of negotiations and the ability of the States to address those issues;*
- (b) Consultations in between negotiating sessions on issues that could affect compliance among States;*
- (c) Workshops on compliance arranged by negotiating States or relevant multilateral environmental agreement secretariats that cover compliance provisions and experiences from other agreements with participation of Governments, non-governmental organizations, the private sector and relevant international, regional and subregional organizations;*
- (d) Coordination at the national level among ministries, relevant agencies and stakeholders, as appropriate for the development of national positions;*
- (e) Consideration of the need to avoid overlaps and encourage synergies with existing multilateral environmental agreements when considering any new legally binding instrument.*

A number of activities can be taken both prior to and during negotiations of a new MEA to ensure that States will be better prepared to comply with its requirements when it is adopted. These activities include the exchange of information among States, coordination at the national level among the different ministries and agencies that will be involved in compliance, and workshops on compliance.

Some States, such as the Cook Islands, have prepared “diplomatic passports” which provide basic information on the negotiations. This can be particularly useful for new negotiators. Such “passports” can be general (describing the negotiating process and etiquette). They may also highlight the key issues at stake in the forthcoming negotiations.

One difficulty that many States face is that there is no formalized, established process for negotiations (including at the Conferences of the Parties). This lack of an established process has many serious implications. This means that no one necessarily knows how to prepare for negotiations, select the delegation, obtain funding for participating, identify key issues and negotiating positions, participate in the negotiating process, or briefing the relevant persons after the negotiations. No one is prepared because no one has specific responsibilities to prepare for the negotiation. The Government may have difficulty finding people with appropriate expertise and skills to negotiate, particularly on short notice. After a negotiating session or COP, the knowledge from that particular event is not necessarily passed on to subsequent negotiators. This means that there is often little institutional memory about the negotiating issues or the positions that the State took on those issues.

Accordingly, one basic way that a State can greatly improve its negotiating capacity is to develop a standard process for preparing for and participating in negotiations. The process can start simply and evolve. It can start by designating the focal point, a process for consultation before the negotiations, and other similar measures. The Checklist for Preparing for Negotiations, which follows, provides some considerations in developing or strengthening national processes to prepare for negotiations.

✓ CHECKLIST FOR PREPARING FOR NEGOTIATIONS

There are many ways States can act strategically to ensure that they are ready to negotiate a legally binding agreement. Any strategy adopted, however, should include some basic elements. The following checklist sets forth national and international considerations when preparing for negotiations:

At the national level:

- What benefits could the State receive from an MEA? [These benefits could be in environmental, economic, social, political, and other forms.]
 - How likely are these advantages to accrue?
 - When would the State receive these benefits?
- What are the potential costs or difficulties associated with an MEA? [Costs could be in economic, institutional, political, and other forms.]
 - How likely are these costs or difficulties? What is the time horizon for addressing them?
 - Does the government have the capacity to implement and enforce the new commitments at the national level? What sort (and amount) of financial or technical assistance might facilitate compliance and enforcement?
 - Would new laws or regulations be necessary? Are there any potential Constitutional conflicts?
- Are the relevant stakeholders involved? These could include, for example, the various relevant line ministries and agencies, sub-national governmental authorities, NGOs, potentially affected businesses and business associations, and indigenous persons.
- If a decision is made to participate in MEA negotiations, who will form the national delegation? Who will be the political focal point?
 - Does the national delegation have the necessary substantive expertise from the line ministries and agencies?
 - Would it help to have an outside expert (from a university, NGO, or other background)?
 - What are the respective roles and responsibilities of the principal political and technical focal points?
 - Is the political focal point aware of, and in regular contact with, the technical focal point or points responsible for implementing the MEA and with the focal point(s) for other relevant MEAs?
 - Is the technical focal point appropriately involved in the negotiation, conclusion, and acceptance of the MEA?
- Will the proposed delegation be able to maintain continuity through the negotiations, thereby improving the institutional memory and negotiating effectiveness?

Checklist for preparing for negotiations (cont'd)

- Do any of the members of the proposed delegation have other commitments that are likely to interfere with their effective participation in the negotiations?
- Is there political support for continuity in the delegation? Is there pressure to rotate negotiators?
- Is there an adequate level of staffing and funding?
 - Are there opportunities to obtain financial assistance from outside sources (MEA Secretariats, bilateral sources, or others) to support participation of the delegation and in intersessional working groups?
- Does the head of the delegation have sufficient seniority to take decisions in the absence of instructions from the capital and to liaise informally with other heads of delegations?
- What are the likely issues in the negotiations?
- What are the top one or two issues of highest priority for the State?
- What is the preferred outcome for these issues?
- What are acceptable alternative outcomes?
- What procedure will the State take at the conclusion of the negotiations?
 - Should the political focal point refrain from communicating final acceptance or ratification of the MEA until any required implementing legislation has been enacted, and any required institutional or administrative arrangements established?
- Who are potential allies on these issues? [This may include States, businesses, or NGOs, including those that may ally themselves on this issue only.]

At the sub-regional, regional, or other international level:

- Is there a relevant international level at which preparations could be undertaken? [This is often regional or sub-regional, particularly for States of limited negotiating resources; and it may be done through existing regional political institutions. It could be, however, groups of like-minded or similarly situated States around the world.]
- Could the cost-benefit assessment outlined above be done within the context of this international grouping?
- Are there regional institutions that could assist in analyzing the available information, sift through the COP papers, and identify the relevant issues?

This checklist draws upon the extensive analysis in the *Environmental Negotiator Handbook* by Alexandre Timoshenko (2003). The Checklist for Focal Points, following Guideline 24, provides additional considerations relevant to preparing for negotiations.



[24]

CHECKLIST FOR STEPS TO FOLLOW WHEN PREPARING FOR NEGOTIATIONS

Following are some of the key steps for preparing for negotiations. These steps may vary depending on the particular context of the State (including the size of the delegation and institutional arrangements).

- In the months before the negotiations:
 - Ensure that there is a sufficient mandate or other need to consult with the Cabinet; proceed accordingly.
 - Consult with other Departments, Agencies, and institutions as appropriate (develop core and general consultation lists).
 - Brief and seek direction from senior officials.
 - Designate lead negotiators, develop positions, and produce necessary policy materials.
 - Consult key negotiation partners (including States of like-minded and regional groups, as well as the MEA Secretariat).
 - Review the status of financial obligations, and make appropriate arrangements.
 - Provide input to the Secretariat on the agenda. Review the draft agenda and existing negotiation texts and papers (consider translations and line-by-line analysis, particularly on key issues). Consider election of officers for sessions and bodies.
 - Make travel and logistical arrangements for the delegation, taking into account the local context and the needs of your delegation.
- In the weeks before the negotiations:
 - Produce briefing books. These briefing books may include the delegation lists, contact and logistics information, position papers and background documents, and intervention materials.
 - Determine the membership of the delegation and the roles of the various members. Notify the Secretariat in advance, in order to ensure appropriate arrangements. Establish the "home team", especially if consultations regarding fallback positions are necessary.
 - Draft opening statements, initial interventions, and key intervention points.
 - Arrange for the initial delegation and negotiation group meetings, and ensure that contact information is distributed.

This checklist draws upon a similar checklist from *Negotiator's Handbook for MEAs*, (UNEP/University of Joensuu/Government of Canada 2006).

Regular Exchange of Information Among States

- [10]** (a) *Regular exchange of information among States, including through the establishment of forums, on environmental issues that are the subject of negotiations and the ability of the States to address those issues; Regular exchange of information among States can help to highlight potential differences in negotiations, options for addressing those differences and reaching consensus, and build broad support for the outcome of the negotiations.*

Often information is exchanged at a regional level, especially in anticipation of negotiations. In practice, information exchange and coordination often happens more frequently for existing MEAs, where there are established procedures, focal points, and funding. However, there is often a greater need for such measures when a new MEA is being considered and States may be unfamiliar with everything but the basic issues.

Certain global MEAs — including the CBD, UNFCCC, and UNCCD — convene regional meetings of States before their respective COPs. In advance of UNFCCC COPs, States usually meet in the State hosting the COP before the COP starts. The CBD COP process usually provides an avenue for regions to develop and discuss positions within each region before the COP. The UNCCD has a similar process, which is facilitated by regional offices. In most instances, such regional meetings are funded by developed countries with the monies administered by the respective MEA Secretariats.

In addition to the global processes and institutions, regional institutions often provide an opportunity for States to develop joint positions. For instance in the Caribbean, the CARICOM Secretariat has developed and coordinated ad hoc regional task forces to assist States in preparing for COPs and for major meetings (such as the 1992 Earth Summit). Similarly, the Environment and Sustainable Development Unit (ESDU) of the Organisation of Eastern Caribbean States (OECS) is attempting to develop a process for the OECS States which involves assisting them with the negotiation process for major conventions. In Africa, UNEP often provides a forum through which African delegates can coordinate in advance of negotiations. In this process, African delegates divide themselves according to the thematic areas so that the relatively small delegations are able to keep track of all the issues (even if it is through the delegations of other, similarly situated States).

The success of particular regional collaborative efforts has depended in part on identifying common needs, capacities, and priorities. As such, the opportunities for regional collaboration in negotiating may vary depending on the issue and the geographic extent of the partners. Moreover, if countries lack sufficient human and financial resources, they might not be able to respond to requests for coordination in an appropriate and timely manner. In these instances, regional coordination can be problematic. To address this lack of capacity, serious lobbying is often needed to elevate the environmental concerns so that resources may be focused on the issue.

Funding and the particular institutional structure can also determine the success or failure of such efforts. Without continuous funding, regional efforts can remain ad hoc, without an established process and group of participants. Similarly, the institution through which coordination is to take place should have an appropriate mandate: a meeting of agricultural officials is unlikely to be the best forum to discuss climate change; and a meeting of trade officials similarly would have difficulties focusing on environmental matters.



In addition to the case studies below, the case studies following Guidelines 11 (a) and (b) may be consulted for examples of how States can exchange ideas and develop common negotiating positions.

[11(a, b)]



DEVELOPMENT OF A COMMON AFRICAN NEGOTIATING POSITION ON DESERTIFICATION

Benin hosted the Fourth Africa/Asia Forum to Combat Desertification in June 2003. This Forum focused particularly on agroforestry and soil conservation. It allowed the various participants of the two continents to exchange agro-forestry techniques with the aim of combating desertification. It drew participants from around Africa and Asia. The exchange of experiences at the Forum also allowed the States in the two regions to identify points of agreement. As articulated in the resolution at the end of the Forum, these points of agreement include:

- Agro-forestry will not resolve all the problems arising from desertification, but its integration into soil management can contribute to improving the environmental situation;
- The importance of implementing a legal framework which includes incentives, participatory decision-taking, and improved competitiveness of the private sector;
- Within the context of the UN Convention to Combat Desertification (UNCCD) and the Global Environment Facility (GEF), measures for supporting synergistic programming between UNCCD, the Convention on Biological Diversity (CBD), and the UN Framework Convention on Climate Change (UNFCCC) must be taken into account; and
- Priority should be placed on biodiversity and on the use of healing and aromatic plants in agro-forestry systems to fight soil degradation, promote sustainable development, and combat desertification.

Immediately following the Forum, African Ministers convened a preparatory meeting in anticipation of the Sixth Conference of the Parties (COP) to the UNCCD, which would be held about two months later. This meeting included the Ministers and Heads of Delegation from the African States who were party to the UNCCD. It enabled the African States to exchange ideas and develop a common negotiating position and identified priorities for the forthcoming COP and its associated negotiations.

Development of a Common African Negotiating Position on Desertification (cont'd)

They adopted the Cotonou Statement that highlighted the following points:

- Their commitment to integrate the national action plans to combat desertification into policies and strategies for sustainable development in Africa;
- Their commitment to finalise the national action plans so that they could complete the regional action plan to combat desertification before the end of 2005;
- Their will to commit to developing and implementing agreements with partners to combat desertification, particularly through consultative processes that lead to implementation;
- Their commitment to combating desertification by incorporating the issue into major African initiatives, following the example of targeted actions in the framework of the New Partnership for Africa's Development (NEPAD).

For more information, see

<http://www.mehubenin.net> and <http://www.unccd.int> or contact mehu@mehubenin.net or secretariat@unccd.int. For more information on NEPAD, see the case study on "Action Plan of the Environment Initiative of NEPAD," following Guideline 34(f).



[34(f)]



HARMONISATION OF MEA NEGOTIATING POSITIONS IN CENTRAL AMERICA

In Central America, the Central American Commission on Environment and Development (known by its Spanish acronym CCAD) has assisted its Member States in preparing for MEA meetings and negotiations. CCAD convenes the National Focal Points of the respective MEAs in Technical Committees. These Committees meet to discuss and harmonize negotiating positions before COPs, SBSSTA meetings, or Working Group meetings. CCAD has Committees on Climate Change, Desertification, Biodiversity, Chemical Substances, and CITES.

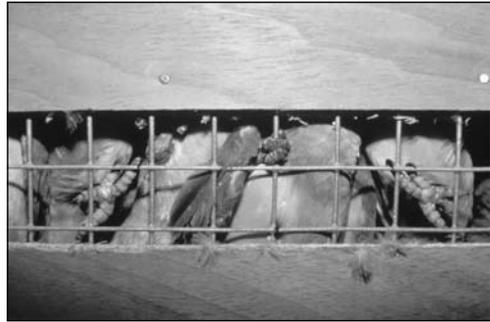
For more information, see <http://www.ccad.ws> or contact CCAD at rrodriguez@sgsica.org or snieto@sgsica.org



EU COORDINATION OF MEMBER STATES IN PREPARING FOR CITES NEGOTIATIONS

In the European Union (EU), participation in MEA negotiations is complex due to the fact that EU nations generally negotiate as a block, but often are parties to MEAs to which the EU is not a party. For example, the EU is not a party to CITES, but all of its 25 Member States are. With the development of a single European market, there is no customs control between the Member States. Thus, the Community has developed its own system, which can be described as "more than CITES." These Regulations are directly applicable in all Member States, and require the Member States to exchange information and to cooperate with each other and with the European Commission in all aspects related to the Regulations.

Dave Currey/Environmental Investigation Agency



Seizure of Argentinian parrots, a CITES-listed species.

With regard to CITES, the EU has established several bodies to ensure exchange of information among the Member States and between them and the Commission, as well as to ensure effective decisionmaking. The Scientific Review Group (SRG) considers the scientific questions related to international trade in wild fauna and flora. The Management Committee consists of the representatives of Management Authorities of Member States, and it considers legal, administrative, and other issues. The third body is the Enforcement Group which consists of representatives of enforcement bodies of Member States (including Customs, Police, Inspections, and Management Authorities). During the meetings, the Member States exchange views and assist the Commission in formulating common positions.

Coordination among the EU Member States in CITES negotiations involves these various institutions. If a Member State would like to present a proposal or position for consideration at the COP of the Convention, the first question is whether the proposal (or part of it) is of a scientific nature. If it is, then the proposal must first be approved by the SRG and then it is discussed by the Management Committee. [If it is not scientific, it goes straight to the Management Committee.] If a consensus or a qualified majority on the proposal is reached, then it goes through the European Council procedure. First, it is discussed at the relevant Working Party of the Council (WPIEI – Working Party on International Environment Issues) and then by the COREPER (Council of Permanent Representatives of Member States), before it is approved by the Council of Ministers. The position is formalised by a Council Decision, which is published in the Official Journal of the European Union. The position is presented at the COP on behalf of all Member States by the State that holds the EU presidency.

Consultations between Negotiating Sessions

[10] (b) *Consultations in between negotiating sessions on issues that could affect compliance among States;*

The periods of time between negotiating sessions offer States an opportunity to conduct bilateral consultations aimed at addressing unresolved issues. These consultations are particularly important where there was no consultation before the negotiating session (or the consultation was inadequate). The consultations then provide an opportunity to brief the stakeholders on the negotiations and solicit feedback. The consultations can thus not only enhance awareness of the negotiating process, but they can improve the ultimate public acceptance of the outcomes.

For example, in Belarus (and other States), internal and national-level consultations during the development of the Aarhus Convention proved fruitful. As the Convention was negotiated, the various drafts were assessed internally to evaluate their implementability and the financial implications. Ultimately, this facilitated the process for the State to become a party to the Convention.

In instances where one nation is representing a group of similarly situated nations, the gaps between negotiation sessions allows that nation to brief the other nations on the progress made at the negotiating session (including any outcomes), highlight unresolved issues, and consult with the other nations regarding negotiating positions that should be taken at the subsequent negotiations.

These consultations can be done on an *ad hoc* basis, if necessary (for example, due to limited resources). However, if the consultations can be institutionalised and conducted regularly, they are more certain to happen.



THE UNFCCC EXPERIENCE IN ENVIRONMENTAL NEGOTIATIONS AND CONSULTATIONS - ADOPTION OF THE BONN AGREEMENTS

Numerous formal and informal meetings and consultations were held before and during the international negotiations that led up to the Bonn Agreement under the UN Framework Convention on Climate Change. This complex Agreement required a variety of informal and formal consultative approaches to negotiations.

Informal Plenary Sessions: For example, at the sixth Conference of the Parties to the agreement, held in The Hague, Netherlands, from 13-25 November 2000, Conference President Jan Pronk attempted to facilitate progress on the numerous disputed political and technical issues by convening high-level informal plenary sessions to address the key political issues, which he grouped into four "clusters" or "boxes."

These were: (a) capacity building, technology transfer, adverse effects and guidance to the financial mechanism; (b) mechanisms; (c) land use, land-use change, and forestry (LULUCF); and (d) compliance, policies and measures, and accounting, reporting and review under Kyoto Protocol Articles 5 (methodological issues), 7 (communication of information), and 8 (review of information).

Informal High-Level Consultations: In preparation for the second part of this conference, a number of meetings and consultations were convened after the first segment. Later that year, President Pronk presented a consolidated negotiating text to delegates at informal high-level consultations. The text was intended as a tool to help negotiators reach a compromise.

Closed Negotiation Groups: The second part of the Conference began with three days of closed negotiating groups to reduce differences on texts for decisions on a range of issues related to the Protocol and the UNFCCC, including financial issues, compliance, and LULUCF.

During the subsequent high-level segment of the Conference, President Pronk presented his proposal for a draft political decision. However, in spite of several Parties announcing that they could support the political decision, disagreements surfaced over the section on compliance. These disputes were resolved in consultations held by President Pronk and ministers ultimately agreed to adopt the original political decision. This decision, known as the "Bonn Agreements" was formally adopted by the Sixth Conference of the Parties.



ARMENIA'S INTER-AGENCY PROCESS FOR DETERMINING WHETHER TO SIGN OR RATIFY AN MEA

Before a draft MEA is ready to be signed, the Law of the Republic of Armenia on "International Agreements" requires that the appropriate Ministry (namely, the Ministry of Nature Protection) receives the approval of its final decision regarding whether to sign the document from the relevant structural units of the Ministry of Nature Protection and other governmental agencies. The text of the draft agreement with all of its amendments and comments is submitted to the Ministry of Foreign Affairs (MFA) in its original language and in Armenian. After adding its own recommendations regarding acceptance, the Ministry of Foreign Affairs transmits the draft agreement to the Government for approval. If the Government approves the draft agreement, an official is authorised to sign the instrument.

While discussing the draft agreement, agencies and the Government take into consideration the urgency of the matter, potential legal conflicts or changes in legislation that would be necessary, capacity to implement the MEA's provisions, current economic conditions, and other factors. The agencies that are responsible for this review are the Department of International Co-operation of the Ministry of Nature Protection and the Legal Department of the Ministry of Foreign Affairs.

Through these comprehensive and thorough reviews, Armenia is able to identify potential difficulties with an MEA and propose necessary (or desirable) changes to a draft MEA. This makes the process of ratification or accession easier for Armenia, as it helps to remove potential barriers in advance. For example, in the process leading up to the Environment for Europe Conference in May 2003, as the draft agreements to be signed at the Conference were being developed, Armenia subjected them to this thorough process of internal consultations and review, which enabled Armenia to determine which of the documents they should sign and any changes that might be necessary.

An MEA undergoes a similar process of inter-agency commentary and approval when the Republic of Armenia seeks to ratify the MEA. Again, all the agencies participate in the process, with the MFA serving as the focal point, and the package of documents is transmitted to the Government. In this case, after the Government issues its approval, the treaty and corresponding documents are transmitted to the Constitutional Court to identify whether the treaty might conflict with the national Constitution in any way. After the determination of conformity with the Constitution, the issue of ratification is transmitted to the National Assembly (Parliament) of the Republic of Armenia, where the final decision and act on ratification is reached.

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Workshops on Compliance

[10] (c) *Workshops on compliance arranged by negotiating States or relevant multilateral environmental agreement secretariats that cover compliance provisions and experiences from other agreements with participation of Governments, non-governmental organizations, the private sector and relevant international, regional and subregional organizations;*

CH 1 - B

In addition to consultations, workshops can be effective in raising capacity among the relevant stakeholders. These workshops can build skills for negotiating MEAs generally, or they may address specific issues that will be considered at the COP or other negotiating session (see case studies below). The workshops can also review the various requirements of MEAs, thereby improving awareness and capacity to comply with the MEA.

Workshops may be convened by Governments, MEA Secretariats, NGOs, universities, or private sector institutions. In most instances, broad participation in the workshops is recommended to ensure not only that various viewpoints are reflected but also to build a broad capacity and to seek feedback, as appropriate.



NEGOTIATING SKILLS WORKSHOPS FOR LDCs AND SIDS ON CLIMATE CHANGE

In 2003, the Foundation for International Environmental Law and Development (FIELD) and the International Institute for Environment and Development (IIED) held a two-day workshop for climate change negotiators from Least Developed Countries (LDCs). The workshop sought to strengthen the negotiating capacity of LDCs through a series of hands-on briefing and negotiating exercises, as well as information sessions on specific issues on the negotiating agenda of relevance to LDCs. The workshop was held immediately before the Ninth Conference of the Parties to the United Nations Framework Convention on Climate Change (UNFCCC), so the negotiators were already on-site and focusing on the issues.

For more information on this workshop, see
http://www.field.org.uk/climatenrg_current.php

Immediately following the negotiating skills workshop, and also just prior to the Ninth Conference of the Parties to the UNFCCC, FIELD convened a one-day insurance roundtable for climate change negotiators from 11 Small Island Developing States (SIDS) in the Pacific, Caribbean, and Indian Oceans, as well as local and international insurance and reinsurance companies, multilateral organisations and banks, and research organisations. This roundtable provided negotiators with information on ways to manage increasing risks from the impacts of extreme weather events.

For more information on this workshop, see
http://www.field.org.uk/climate_insur.php

Negotiating Skills Workshops for LDCs and SIDS on Climate Change (cont'd)

Earlier in 2003, FIELD co-hosted two regional workshops to strengthen the capacity of Pacific Island States to negotiate and implement the UNFCCC and Convention on Biological Diversity, with regional partners Pacific Regional Environment Programme (SPREP) and WWF-South Pacific Programme (WWF-SPP). The First Regional Workshop drew 22 participants from 12 islands and was held in April 2003 in Apia, Samoa; the Second Regional Workshop was held in Nadi, Fiji in November 2003 with 30 participants from 13 Pacific Island States.

For more information, see http://www.field.org.uk/strength_capacity.php and http://www.field.org.uk/climatenrg_current.php

Similarly, in 2004, FIELD and its partners organised two training courses for climate change negotiators. This included a three-day regional workshop for negotiators from 14 Pacific Island States, as well as a two-day workshop for 30 negotiators from least developed countries. These two events were held in the weeks before the 10th Conference of the Parties to the Climate Convention.

For more information, contact mj.mace@field.org.uk



BASIC AND ADVANCED DIPLOMATIC TRAINING

The Institute of Diplomacy and Foreign Relations (IDFR) has conducted training for negotiators from Malaysia, Cambodia, Vietnam, Laos, and other ASEAN States through its Diplomatic Practice Programme (for international participants). Established in 1991, IDFR is an agency within Malaysia's Ministry of Foreign Affairs. Since its establishment, IDFR has trained a total of 578 participants from 73 States in 26 programmes.

These basic and advanced capacity building programmes seek to improve the standard of professionalism and efficiency of diplomatic officers from ASEAN and other developing countries. Areas of training include: diplomatic practice, strategic and international security studies, economic and public diplomacy, and English and other foreign languages. The courses provide diplomats and other officers with opportunities for exchange and cross-flow of ideas, and for long-term networking.

For more information, see <http://www.idhl.gov.my/>



REGIONAL WORKSHOPS IN ASIA

A number of projects have been carried out under the SACEP/UNEP/NORAD (South Asia Cooperative Environment Programme, UNEP, and the Norwegian Agency for Cooperation and Development) Joint Project on Environmental Law and Policy. In April 1997, a Regional Workshop on Strengthening Legal and Institutional Arrangements for Implementing Major Environmental Conventions in South Asia was held in the Maldives and attended by senior government officials in environment related ministries. The workshop reviewed existing arrangements for the implementation of major environmental conventions and drew up several suggestions for enhancing the effectiveness of implementation and also strengthening cooperation among States in South Asia in regard to negotiating environmental conventions.

Institutional and Ministerial Coordination at the National Level

[10] (d) *Coordination at the national level among ministries, relevant agencies and stakeholders, as appropriate for the development of national positions;*

Frequently, an MEA may touch upon many sectors: environment, trade and industry, foreign affairs, economic development, water, wildlife, and so on. In order to ensure that a State's national position accurately accounts for the nation's various interests, it is essential that there be national-level governmental coordination and communication in preparing for negotiations. One aspect of this coordination is to avoid having different focal points from the same State present conflicting or contradictory positions in different MEAs. Different States have pursued inter-ministerial communication and coordination in different manners.

Sometimes, one authority is the focal point for all MEA negotiations, and it plays a coordinating role with respect to the other ministries and agencies. In other States, different institutions assume the lead responsibility and try to coordinate with their sister institutions. Some States, such as Malaysia, have established a separate national steering committee that includes representatives from relevant governmental institutions and from NGOs. Others, such as Mauritius, have different coordinating committees (for each MEA) with an umbrella network to coordinate them.

No particular approach is inherently "better." The most important factor is that there is a well-established process for consulting with the other relevant national institutions. For example, inter-Ministerial councils may look good on paper but not function effectively (if at all). In some States, the use of a single inter-departmental committee addressing a number of MEAs was effective and saved resources, but other States have had better luck with less centralised approaches.

Political will can determine whether institutional coordination will succeed or fail. For example, one Pacific Island nation adopted a coordinating unit to manage most of the MEAs. This was very successful, but when another State tried a similar framework it did not work well. What was the difference? The President in the first State was much more sympathetic to environmental issues.

Increasingly, States are involving NGOs and other experts in the negotiation and implementation of MEAs. For example, many States involved NGOs in the development, ratification, and implementation processes to an unprecedented extent with the Aarhus Convention. Consulting with experts in universities, NGOs, and the private sector can be particularly helpful for States negotiating complex issues. In such instances, experts can advise the government on options for negotiation.

In conducting national consultations, cost-benefit analyses can be particularly useful in identifying potential implications of an MEA, and they can help to focus the discussions. For more information on cost-benefit analysis of MEAs, see the case studies at the beginning of Chapter I (for Croatia, Seychelles, and Sri Lanka).

A number of States have established resource centres to serve as central repositories of information regarding MEA negotiations and implementation. These centres can also facilitate inter-agency coordination and exchange of information (see below).

In addition to improving inter-ministerial and inter-agency coordination, States can consider ways to better engage Parliament (or other legislative institutions) in the process. Consulting Parliament early in the negotiating process can build ownership for the final negotiated outcome. This, in turn, can facilitate the development of implementing legislation and allocation of funds to implement the MEA. The case study on “Parliamentary Involvement in MEA Negotiations in Antigua and Barbuda” (below) touches on this issue.

In addition to developing coordinated national positions and selecting the national delegation, it is important to “close the loop” following the negotiations. Different States have adopted different procedures to ensure that the various stakeholders who participated in preparing for negotiations learn about the outcomes of the negotiations. This may be done, for example, through a formal written summary of the negotiations or through oral debriefings. In addition, some States have adopted MEA resource or reference centers that provide a repository for documents, reports, and other information relating to past MEA negotiations (see, for example, the case study below on “Sri Lanka’s Environmental Treaty Reference Centre”).



[42(b)]

In addition to the case studies that follow regarding institutional coordination at the national level in negotiation, the case study on “Public-Private Dialogues in Brazil” following Guideline 42(b) may be relevant (especially the experience of the Brazilian Forum on Climate Change).



ST. LUCIA'S CONVENTIONS AND AGREEMENTS COMMITTEE

To assist the Ministry of Agriculture, Forestry and Fisheries in St. Lucia comply with the obligations of the conventions and agreements under its purview (including the Biodiversity, Desertification, and Ramsar Conventions), a Conventions and Agreements Committee has been established. The committee consists of representatives from the Ministry's departments that work on convention matters. The Second Enabling Activity Biodiversity Project currently serves as the secretariat for the committee; and the Deputy Permanent Secretary of the Ministry chairs the committee. This committee:

- advises the Government of St. Lucia to decide whether it should sign specific conventions;
- helps to develop State and ministerial positions on issues coming up for discussions at the various meetings of the different conventions and agreements;
- is responsible for raising public awareness on issues related to MEAs and the development of the State;
- ensures that officers who attend overseas missions related to MEAs provide timely reports on specific measures that could be taken to fulfil MEA obligations; and
- liaises with other ministries on the island to help implement MEA obligations.

This committee has helped significantly to streamline and focus the work of the Ministry to implement MEAs.

For more information, contact biodivproject@slubiodiv.org



SRI LANKA'S ENVIRONMENTAL TREATIES REFERENCE CENTRE (ETRC)

The Government of Sri Lanka has ratified more than 36 MEAs since 1972. The Ministry of Environment and Natural Resources, which is the focal point for most of these MEAs, found that these conventions have not been properly implemented. The problems faced by the State in the implementation of MEAs include: 1) no accepted ratification procedure, 2) lack of co-ordination between focal points, 3) no domestic legislation to implement MEAs, 4) no comprehensive enforcement approach, 5) lack of awareness on MEAs at all levels, 6) inadequate resource allocation for MEAs 7) donor-driven project implementation, 8) no systematic participation at MEA negotiations, 9) weak preparation for negotiations, 10) lack of capacities in international negotiation, and 11) lack of access to documents and reference materials.

To address many of these issues, the Ministry of Environment and Natural Resources established the Conventions Reference Centre (CRC) as a partnership organization that involves all focal points of MEAs and stakeholders as partners. The CRC has since been renamed the Environmental Treaties Reference Centre (ETRC). Partners of the ETRC include: government agencies, professionals, academics, NGOs, CBOs, and the public. The ETRC stores reference materials and documents relevant to all MEAs and frequently updates this information for the benefit of ETRC partners. It currently has two staff (one full-time).

The Environmental Treaties Reference Centre is responsible for ensuring effective coordination among the MEA focal points and preparing national positions for all MEAs, adopting a synergistic approach. The ETRC compiles and updates information on MEAs signed by Sri Lanka and disseminates information regarding the implementation of MEAs. It raises awareness among focal points on important global events relevant to MEAs and builds capacity of focal points for international negotiations (for example, it has drafted 20 position papers on various MEAs). The ETRC also engages in public outreach, building networks for effective stakeholder consultations and obtaining expert advice. It links with donor agencies and multilateral agencies, coordinating donor funding. The ETRC also builds technical capacity for effective implementation of MEAs, facilitates development of policies and legal frameworks, designs and implements programmes and projects, and sets guidelines for MEA implementation by focal points. The ETRC is coordinating Sri Lanka's NCSA process.

The MEAs Steering Committee, MEAs Technical Committee, and MEAs Stakeholder Network were established to support the CRC (now the ETRC). The ETRC can be utilised by focal points and stakeholders for any activities relating to MEAs. As a partnership organization, there are no leadership issues encountered in the implementation of MEA activities. With the establishment of CRC/ETRC, the Government of Sri Lanka has been able to address most of its MEA implementation issues.

For more information, visit the ETRC web page at
<http://www.conventionsl.com/index.htm> or contact envecon@sltnet.lk



BOLIVIA'S APPROACH TO THE UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE (UNFCCC)

Because Bolivia enjoys vast forested lands, it took a particular interest in ensuring it was prepared at the national level for the negotiation of the UNFCCC. The main objective of the Bolivian government's strategy was to derive benefits from the Clean Development Mechanism (CDM). Accordingly, most of Bolivia's negotiating machinery was geared to prepare for the CDM and to lobby the necessary parties and actors in this regard.

Raising Awareness of the Bolivian Delegation: The negotiation process started with a series of workshops in the State to raise awareness of the issues and the possible benefits of the CDM, amid the preparation of the inventories.

Formulation of a National Strategy and Team: Following these brainstorming events, the Bolivian national consultative group was formed, and consultants were hired to prepare proposals to develop the national strategy for implementing the CDM. The team of consultants was responsible for preparing the drafts and submitting them to an ad hoc inter-institutional committee made up of the Ministry of Sustainable Development, NGOs, and key donors. As the national position and the strategy were being clarified, the Inter-institutional Committee for Climate Change (CICC) began to play a larger role, providing comments to drafts and guidance on future actions. This committee gave the final approval on the position and the way to negotiate in the sixth Conference of the Parties (COP-6) to the Convention. A small team of four plus the Minister of Sustainable Development were nominated to attend the COP. The negotiating team was composed of:

- a principal negotiator (the advisor to the Minister),
- a representative of the Ministry of Foreign Relations,
- the head of the national climate change programme, and
- the head of the consultants' team that prepared the strategy to implement the CDM in Bolivia.

Coordination with Coalitions of Like-Minded Groups: Bolivia sought to obtain greater support or a transfer of funds from developed countries to address the costs of adaptation and to include forest projects in the CDM. Therefore, it searched for States with the same interests, particularly in Latin America. Close contacts were established with other Latin American States holding similar positions (especially Colombia, Costa Rica, Uruguay, and Mexico), and a joint strategy was agreed upon to ensure that COP-6 could open a market for a Certified Emission Reduction under the CDM.



KAZAKHSTAN'S APPROACH TO MEA INVOLVEMENT

In the Republic of Kazakhstan, responsibilities for MEAs are divided among various departments in the Ministry of Environmental Protection, depending on the specific competences of the respective departments. For each MEA, the Ministry designates a responsible official. Overall management of MEAs is supervised by two vice-ministers, and one department in the Ministry focuses on facilitating synergies among the different MEAs. For more information on the Ministry's work on MEAs, see <http://www.nature.kz> (in Russian).

Initial preparatory work for becoming involved in a convention's development is done by the Ministry of Environmental Protection, which works with an expert panel and assesses the necessary measures for implementing a particular MEA. Accordingly, the Ministry coordinates various initiatives and projects that facilitate the signing or ratification of an MEA. For example, there are projects designed to assist Kazakhstan in fulfilling its commitments under the Stockholm Convention on Persistent Organic Pollutants (POPs), and to build capacity for biodiversity information management. There is a Climate Change Center that is working on the process of ratifying the Kyoto Protocol, and there is a comparable Center to Combat Desertification. In general, the experts involved in these projects assist the Ministry in determining the nature of its involvement in different MEAs.

The results from the assessment and evaluation of the projects are submitted to the Ministry. If submitted materials indicate that the MEA is in Kazakhstan's best interests, the Ministry makes the decision to pursue participation in the MEA's development.

The Ministry of Foreign Affairs has the primary responsibility for negotiating all international agreements (MEAs), while the Ministry of Environmental Protection participates in MEA negotiations in its substantive capacity as the official body responsible for environmental protection.

*For information on the POPs project, contact
Marat Ishankulov at marat.ishankulov@undp.org.*

*For information on the Climate Change Center, contact Kanat Baigarin at
infa@climate.kz*



IVORY COAST'S CALENDAR OF MEA MEETINGS

Every year, Ivory Coast prepares a calendar of MEA meetings of interest to the State. The Minister in charge of the environment proposes a draft list of MEA meetings in which the State should take part. An inter-departmental Committee composed of the Ministry in charge of the Environment, the Ministry for Foreign Affairs, and the Ministry for the Economy and Finances then review and adopt the calendar.

The calendar of MEA meetings is made available to the other Ministries and NGOs interested in the MEAs. The calendar is available at the Ministry for Foreign Affairs and the Ministry in charge of the Environment.

The list of meetings, together with a calendar, is presented at the annual budgetary conference for financing. The general assumption is that funds will be allocated to the Minister, if the meeting includes a ministerial segment. Technical experts from the Ministries and from NGOs who participate in the delegation are requested to seek financing for their participation in the MEA meetings from development partners and other donors.

The person who manages the calendar at the Ministry in charge of the environment is Mrs. Nassere Kaba (kabanassere@hotmail.com, tel./fax.: +225-20211183)



PARLIAMENTARY INVOLVEMENT IN MEA NEGOTIATION IN ANTIGUA AND BARBUDA

In Antigua and Barbuda, the Ratification of Conventions Act gives Parliament a role in treaty ratification. Before MEAs and other treaties can be considered legally binding on the State they must be approved by Parliament. This procedure ensures that Parliament is fully aware of the measures it will need to take in order to make the agreement's obligations part of national law. It has added bonuses as well: televised parliamentary debates on treaty ratification also encourage public awareness, education, and involvement. This process is intended to and has the practical effect of empowering public participation at every stage of the implementation cycle, something encouraged by the Rio Declaration and the basic tenets of participatory democracy.

For more information, contact
legalaffairs@candw.ag or environment@antiguabarbuda.net



CAMEROON'S PROCESS FOR PREPARING FOR MEA NEGOTIATIONS

Before most MEA negotiations and COPs, Cameroon usually holds preparatory meetings to discuss key issues. These meetings can be committee meetings or taskforce meetings that are convened by the focal point Ministry. In this context, the operational focal point plays an important role in providing the Minister with an analysis of the event's key issues and considerations for Cameroon. Through these consultations, key Ministries and administrative bodies are able to exchange views on the issues. Moreover, NGOs may participate – depending on the particular circumstances – and in the past, NGOs have provided interesting arguments and information to inform the preparations. This was the case, for example, in preparing for the 2006 Biosafety COP-MOP.

This process has a number of benefits. Through this consultative process, all relevant (stakeholder) Ministries are informed of the issues and given a chance to share their views in advance of the meeting. This strengthens the negotiating position by integrating expert knowledge from the various ministerial departments. It also enables the various ministries to be informed in advance of the State's views. This also builds consensus of views regarding certain major issues for negotiation. In building consensus, the various concerned ministries take ownership of the negotiation's outcome and thereby build support for subsequent implementation and enforcement. The process saves time, since the workload is divided among delegation members: persons are identified already for specific group discussions. Moreover, since all members of the delegation have gone through the consultative process, they generally have the same views on the key issues and the delegates are better prepared for negotiations. Ultimately, this process has enabled Cameroon's MEA negotiators to be better informed and prepared.

For more information,

see <http://www.spm.gov.cm> or contact Peter Enoh enohpeter@yahoo.fr



INVOLVEMENT OF NGOs IN PREPARING FOR MEA NEGOTIATIONS IN THE GAMBIA

In The Gambia, NGOs are members of committees, boards, task forces, and working groups on many environmental issues. The Government also nominates NGOs and other members of civil society to attend national and international workshops and meetings. In many instances, NGOs and other members of civil society participate in meetings to assist the Gambian Government in preparing for negotiations.

For more information, contact fjndoye@qanet.gm

Avoiding Overlaps and Encouraging Synergies with Existing MEAs

- [10]** (e) *Consideration of the need to avoid overlaps and encourage synergies with existing multilateral environmental agreements when considering any new legally binding instrument.*

Environmental policy making at the international, regional, and national levels has generally approached problems in a case-by-case manner, addressing individual problems as they arose. This has led to a substantial increase in the number and scope of MEAs, each one addressing a separate issue, and to a growing number of international and national institutions. Since most environmental issues are rarely isolated from other issues, environmental and otherwise, there is the potential for both synergy and uncertainty.

This Guideline recommends that States considering any new legally binding instrument take into account the need to avoid overlaps with existing MEAs. In addition, the guideline suggests that, when States are contemplating the negotiation of a new legally binding instrument, they encourage synergies with existing MEAs that address related issues.

In negotiations for a number of recent MEAs, negotiators often received a background paper that set forth the relevant international legal instruments in existence and the potential implications. This was the case, for example, for the “chemical conventions” that include the Stockholm Convention on Persistent Organic Pollutants (POPs) and the Rotterdam Convention on Prior Informed Consent (PIC).

Thus, when States decided to negotiate new MEAs addressing persistent organic pollutants and prior informed consent on the importation of certain hazardous chemicals and pesticides, negotiators considered how the new agreements would relate to the existing Basel Convention on Control of Transboundary Movements of Hazardous Wastes and their Disposal. While the Basel Convention primarily addresses wastes, and the other two topics did not necessarily address wastes, there were some overlaps and synergies. By taking into consideration the Basel Convention, the negotiators were able to facilitate what has become a relatively collegial relationship between the Stockholm Convention (on POPs), the Rotterdam Convention (on PIC), and the Basel Convention.

MEAs often are “living” documents. Once they are adopted, there is an ongoing discussion among the Parties — as well as other interested institutions — to determine whether implementation is taking place as expected, to exchange experiences, to assess progress toward the stated goals of the agreement, and to identify successes and outstanding gaps. Many of these discussions take place at the Conferences of the Parties (COPs) and Meetings of the Parties (MOPs). At most COPs and MOPs, there are negotiations regarding the Agreement. The negotiations generally do not re-open the commitments that Parties have made. In most instances the negotiations relate to administrative aspects of implementation or to unresolved issues. This can lead, for example, to decisions or resolutions of the COP or MOP. The negotiations can also lead to new MEAs, such as the Cartagena Protocol on Biosafety, which is a protocol to the Convention on Biological Diversity. In such negotiations, this Guideline encourages negotiators to consider how the ongoing negotiations relate to existing MEAs and to promote synergies.



[33(f)]
[34(h)]
[40]
[41(b)]

In addition to addressing synergies and overlaps among agreements at the negotiations stage, it is possible to address synergies once the agreements have been adopted and are being implemented. This may be at the international level, for example facilitating cooperation among the MEA Secretariats (particularly at the request of Parties). Or it may be at the regional and national level, through capacity building, legislative development, and awareness raising activities. Guidelines 33(f), 34(h), 40, and 41(b) and their

accompanying text address a variety of these synergies at the national, regional, and international levels.

In addition to synergies among MEAs, a number of States and organizations are considering the potential relationship between existing multilateral environmental agreements and new legally binding instruments in other sectors (such as bilateral, regional, and global trade agreements). MEAs frequently intersect with other regimes, especially in particular contexts. These include:

- trade (through the World Trade Organization as well as regional institutions)
- health (through the World Health Organization (WHO));
- food and agriculture (through Food and Agriculture Organization (FAO), WHO, and the Codex Alimentarius);
- labour (with the International Labor Organization (ILO));
- customs [see Guidelines 33(f), 41(b), 42, 43(b), 46, and 48 and accompanying text];
- investment (with the International Monetary Fund (IMF) and the proposed Multilateral Agreement on Investment (MAI));
- millennium development goals (MDGs); and
- human rights.



[33(f)]
[41(b)]
[42]
[43(b)]
[46]
[48]

The relationships between these different regimes and specific MEAs — whether there are synergies, overlaps, or both — vary from minor to significant, from potential to actual. A full treatment of this topic is beyond the scope of this Manual, which focuses on compliance with and enforcement of MEAs. Those interested in more information on this topic may wish to consult the various references overleaf.



Additional Resources on Synergies between Environment and other Regimes

- Duncan Brack & Kevin Gray, *Multilateral Environmental Agreements and the WTO* (RIIA & IISD 2003), available at <http://www.iucn.org/themes/pbia/themes/trade/training/Multilateral%20Env%20Agreements%20and%20the%20WTO.pdf>
- Axel Bree & Sebastian Jungnickel, *Harmonization of the Dispute Settlement Mechanisms of the Multilateral Environmental Agreements and the World Trade Agreements* (Erich Schmidt Verlag 2003).
- Anantha Kumar Duraiappah & Asmita Bhardwaj, *Measuring Policy Coherence among the MEAs* (IISD 2005) available at <http://www.iisd.org> (including a discussion of synergies between MEAs and Millennium Development Goals).
- Environment and Trade: A Handbook* (2nd ed.) (UNEP/IISD 2005), available at http://www.unep.ch/etb/areas/pdf/envirotrade_handbook_2005.pdf
- Kevin R. Gray, "Accommodating MEAs in Trade Agreements" (2004), available at http://www.iddri.org/iddri/telecharge/gie/communications/4e_gray.pdf
- David Hunter, "The Emergence of Citizen Enforcement in International Organizations," in *Proceedings of the Seventh International Conference on Environmental Compliance and Enforcement*, vol. 2 (INECE 2005) available at http://www.inece.org/conference/7/vol2/54_Hunter.pdf (highlighting synergies between environmental enforcement and international financial institutions).
- Romina Picolotti & Jorge Daniel Taillant, *Linking Human Rights and the Environment* (University of Arizona Press 2003).
- Romina Picolotti, "Using Human Rights as an Enforcement Tool to Ensure the Right to Safe Drinking Water: An Argentine Case Study," in Durwood Zaelke et al., *Making Law Work: Environmental Compliance & Sustainable Development*, Vol. 1, 603 (Cameron May 2005), available at http://www.inece.org/conference/7/vol2/62_Picolotti.pdf
- Rosalind Reeve, *Policing International Trade in Endangered Species: The CITES Treaty and Compliance*, (RIIA/Earthscan 2002) (analyzing the relationship between CITES and the World Trade Organization).
- M. Scott Taylor & Brian R. Copeland, *Trade and the Environment: Theory and Evidence* (Princeton University Press 2003).
- Chris Wold et al., *Trade and the Environment: Law and Policy* (Carolina Academic Press 2005).

Web sites:

- Global Environment & Trade Study Web Page: <http://www.gets.org/>
- International Labour Organization: <http://www.ilo.org/>
- International Monetary Fund: <http://www.imf.org/>
- North American Commission for Environment Cooperation (NACEC): <http://www.cec.org>
- Trade and Environment Bibliography (WTO-related): <http://www.ppl.nl/hugo/WTObibliographyenvironbibl.htm>
- Trade and Environment Database: <http://www.american.edu/TED/ted.htm>
- UNEP's Economics and Trade Branch: <http://www.unep.ch/etu/index.htm>
- UN Food and Agriculture Organization (FAO): <http://www.fao.org/>

Additional Resources on Synergies between Environment and other Regimes (cont'd)

World Customs Organization: <http://www.wcoomd.org>

World Health Organization: <http://www.who.int/>

World Intellectual Property Organization: <http://www.wipo.int/>

World Trade Organization (WTO) Web Page on Trade and Environment:

http://www.wto.org/english/tratop_e/envir_e/envir_e.htm (including a Matrix of Trade Measures Pursuant to Selected Multilateral Environmental Agreements at

http://www.wto.org/english/tratop_e/envir_e/mea_database_e.htm)

See also the case study on "The Green Customs Initiative" following Guideline 33(f) (which includes not only the WCO and Customs-related instruments such as the Harmonized System, but also works with the Office for the Prevention of Chemical Weapons to build capacity of customs officers).

C. Negotiating MEAs

Effective Participation in Negotiations

- [11]** *To facilitate wide and effective participation by States in negotiations, the following actions may be considered:*
- (a) Assessment of whether the issue to be addressed is global, regional or subregional, keeping in mind that, where appropriate, States could collaborate in regional and subregional efforts to promote implementation of multilateral environmental agreements;*
 - (b) Identification of countries for which addressing an environmental problem may be particularly relevant;*
 - (c) Establishment of special funds and other appropriate mechanisms to facilitate participation in negotiations by delegates from countries requiring financial assistance;*
 - (d) Where deemed appropriate by States, approaches to encourage participation in a multilateral environmental agreement, such as common but differentiated responsibilities, framework agreements (with the content of the initial agreement to be further elaborated by specific commitments in protocols), and/or limiting the scope of a proposed multilateral environmental agreement to subject areas in which there is likelihood of agreement;*
 - (e) Transparency and a participatory, open-ended process.*

The prospects for an MEA to be fully implemented and complied with are determined to a great extent during the negotiation phase. Vigorous and informed participation by all potential Parties to an MEA is an essential prerequisite to reaching a final agreement that is workable for all Parties. A number of activities can be taken at this stage, including consideration of establishing special funds to facilitate participation of developing countries in the negotiating process, recognition of common but differentiated responsibilities, and a transparent negotiating process.

Treaty negotiations are conducted either through discussions (in the case of bilateral treaties) or by a diplomatic conference (which is the more usual procedure for a multilateral treaty). In both cases, the delegates remain in touch with their Governments, they have with them preliminary instructions that are not communicated to the other Parties, and at any stage they may consult their Governments and, if necessary, obtain fresh instructions.

The procedure at diplomatic Conferences tends to follow a standard pattern: All delegates gather in a plenary session and take decisions on the convention's terms (usually

by consensus). Various committees such as steering committees, legal committees, and drafting committees are usually appointed at an early stage to receive and review the draft provisions proposed by the various delegations. Usually, too, the Conference appoints a prominent delegate to act as rapporteur in order to assist the Conference in its deliberations. Besides the formal public sessions of the Conference, many informal discussions are conducted in the corridors, in hotel rooms, and at special dinners and functions. These “marginal” consultations allow delegates to confer informally and develop compromises and solutions to problems that keep the negotiations moving forward.

In some cases, Parties to a treaty adopt procedural rules unique to that particular treaty. Delegates and other stakeholders can always obtain information on the rules of procedures governing the diplomatic process for an MEA from that MEA’s Secretariat.



ENHANCE - TRAINING FOR NEGOTIATORS

The Environmental Negotiations Hands-on Capacity-building Exercise (ENHANCE) Initiative, a project of the Institute for Advanced Studies at the United Nations University (UNU), sought to equip developing State negotiators with the necessary knowledge and skills to enable effective participation in MEA negotiations. ENHANCE focused on building capacity regarding pre-negotiation issues facing environmental policy actors, such as relevant mid-level ministerial staff and diplomats. This initiative began in early 1996 and included a number of capacity building workshops, strategic policy research projects, and a long-running survey of the needs and concerns of developing country negotiators.

For more information, see <http://www.ias.unu.edu/research/enhance.cfm>

Delegates from developing countries often do not enter the multilateral environmental negotiating arena with the same level of resources or preparation as their developed country counterparts. Participation in capacity-building workshops and initiatives are one way that developing countries can improve their position in international negotiations.

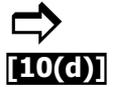
One key way to enhance the effectiveness of a State’s negotiating capacity for a particular MEA is to ensure *continuity of the State’s negotiating delegation*. States often rotate negotiators. This means that no one really has a complete picture of what happened in previous negotiations or necessarily understands the broader context and history of issues currently under discussion. At the same time, if a lead negotiator retires or leaves government service, it is important to have other staff with the capacity to continue the negotiations.



High-level delegates listen to remarks during the COP-11 of the Climate Change Convention and MOP-1 of the Kyoto Protocol

If staff is available, one option is to have one lead negotiator who attends all events, and then have two or three (or more) other individuals who rotate through a second position on the delegation. Such an approach provides both continuity of the delegation and a breadth of capacity that together improve the effectiveness and robustness of the delegation.

Another option is a reference centre that provides a depository for information on past negotiations. Sri Lanka's Environmental Treaties Reference Centre, described in a case study following Guideline 10(d), is an example of such a depository.



A second, related issue affecting the effectiveness of a State's delegation is ensuring that the appropriate negotiators are selected. Ideally, the negotiators will have the appropriate technical capacity and authority to negotiate on behalf of the Government. For more information, see the Checklist on Preparing for Negotiations following Guideline 11.



Specific ideas for improving the implementability of MEAs at the negotiation phase provided by the Guidelines include the following various measures discussed in the immediately following five sections (relating to Guideline 11).



EARTH NEGOTIATIONS BULLETIN (ENB)

Since 1992, the Earth Negotiations Bulletin (ENB) has provided a “balanced, timely and independent reporting service that provides daily information in print and electronic formats from multilateral negotiations on environment and development.” It reports on most international environmental meetings and negotiations. During negotiations, ENB publishes daily reports (one-page, double-sided) that highlight the developments of the previous day in a quick, easy-to-read format. ENB also publishes longer summaries of the meetings. As such, ENB is an indispensable resource for finding out what is happening – and what happened – at environmental negotiations.

For more information, see <http://www.iisd.ca/enbvol/enb-background.htm>

Informal Negotiations

In addition to the formal negotiating sessions, informal negotiations can be critical to effectively advancing a particular position in the formal negotiations. Informal consultations can provide flexibility and opportunities to engage in an active dialogue that may not be possible under formal negotiating rules, particularly when many parties are involved. As such, informal negotiations can provide an opportunity to clarify positions (yours as well as other's), gather more information, identify areas of common ground, navigate around areas of potential disagreement, and test potential language with concerned delegations. There are many different contexts in which informal negotiations can take place, including:

Note: Informal negotiations can be critical to effective participation in formal negotiations.

- before negotiations, at regional preparatory meetings;
- over coffee and tea breaks during negotiations;
- in the corridors, before negotiations, during negotiations, or during breaks in the negotiating session;
- in the evenings, between negotiating days, over beer, cocktails, or other drinks [NOTE: some individuals might not drink alcohol for religious, personal, or other reasons, and it is prudent to avoid making them feel uncomfortable by inviting them to drink alcohol]; and
- through “side events” that often happen at negotiations (usually during the lunch and evening breaks). These side events are an opportunity for a delegation, international institution, NGO, university, business, or combination of institutions to highlight ideas, experiences, or approaches that may be of interest to the broader negotiations and discussion.



Additional Materials on Negotiation

There are many valuable resources available to ensure that participation in negotiations and other intergovernmental processes are effective. Some of these include:

Winston Anderson, *Multi-Lateral Environmental Agreements/Facilitating Negotiation and Compliance: Options for Reform* (OECS 2001).

Johannah Bernstein, *The Art and Science of Sustainable Development Negotiations* (2004), available at <http://www.joensuu.fi/unep/envlaw/materi2004/bernstein2.doc>

Felix Dodds & Michael Strauss, *How to Lobby at Intergovernmental Meetings* (2004).

(This book provides a range of approaches for governmental and nongovernmental actors to participate and be heard at intergovernmental meetings. For example, it includes tools to prepare such as scenario-building and (Strengths/Weaknesses/Opportunities/Threats) SWOT analyses, as well as national and global actions that should be undertaken before the meetings. It provides a list of innovative approaches on how to be effective while attending and participating in UN meetings. For those not accustomed to attending intergovernmental meetings, the book describes the roles of the different bodies and forums involved, as well as a primer on the international negotiating process. Finally, it provides logistical information and various reference materials. For more information, see <http://www.stakeholderforum.org/publications/books/lobby.php>)

Joyeeta Gupta, “On Behalf of My Delegation . . .”: *A Survival Guide for Developing Country Negotiators* (Center for Sustainable Development in the Americas and the International Institute for Sustainable Development 2000), available at <http://www.cckn.net/www/index.html> (although this publication focuses on climate change and was published in 2000, it has a number of useful negotiating skills, including a chapter on “Tips and Tricks for the Lonely Diplomat”).

Winfried Lang, *International Environmental Negotiations* (UNITAR) (in English and French) (theory, processes, and techniques, including dispute avoidance and dispute settlement provisions, as well as experiences in developing particular international environmental agreements are highlighted through case studies).

Jeffrey G. Miller & Thomas R. Colosi, *Fundamentals of Negotiation: A Guide for Environmental Professionals* (Environmental Law Institute 1989), reviews negotiating strategies at the local and national level with some potential lessons for international negotiations.

Additional Materials on Negotiation (cont'd)

- Evangelos Raftopoulos & Moira L. McConnell (eds.), *Contributions to International Environmental Negotiation in the Mediterranean Context* (2005) (includes a collection of analytic papers and simulation exercises for use in training courses on international environmental negotiations).
- Lawrence E. Susskind, *Environmental Diplomacy: Negotiating More Effective Global Environmental Agreements* (Oxford University Press 1994).
- Lawrence Susskind et al., *Negotiating Environmental Agreements: How to Avoid Escalating Confrontation, Needless Costs, and Unnecessary Litigation* (Island Press 1999).
- Lawrence Susskind et al., *The Consensus Building Handbook: A Comprehensive Guide to Reaching Agreement* (SAGE Publications 1999).
- Timothy M. Swanson & Sam Johnston, *Global Environmental Problems and International Environmental Agreements: The Economics of International Institution Building* (Elgar 1999/2000) (examining the negotiation of international environmental agreements from an economic perspective).
- Alexandre Timoshenko, *Environmental Negotiator Handbook* (Kluwer Law International 2003) (covers all the phases of establishing MEAs. It provides guidance on pre-negotiation, negotiation, adoption and signature, interim implementation, entry into force, and implementation and further development).
- UN Non-Governmental Liaison Service, *United Nations System: A Guide for NGOs* (2003), available at http://www.un-ngls.org/ngo_guide.htm
- UN Non-Governmental Liaison Service with Gretchen Sidhu, *Intergovernmental Negotiations and Decision Making at the United Nations: A Guide* (2003), available at http://www.un-ngls.org/d_making.htm
- United Nations University, *Earth Negotiations: Analyzing Thirty Years of Environmental Diplomacy* (UNU 2001).
- Janet Welsh Brown et al., *Global Environmental Politics* (4th ed.) (Westview Press 2006).

CHECKLIST FOR STRATEGIES FOR EFFECTIVE PARTICIPATION IN NEGOTIATIONS

Following are a few basic approaches that negotiators may wish to bear in mind. While they are oriented toward national delegations at MEA negotiations, the underlying principles may be relevant more broadly to other constituencies and to other contexts.

- As a delegate, you represent your State, not necessarily your Ministry, Department, or other institution.
- The head of your delegation has the overall authority and responsibility for the entire delegation.
- Your negotiating instructions are the basis of everything:
 - know them,
 - follow them,
 - keep them safe, and
 - keep them secret.
- Before jumping in to a negotiating session, learn about the forum and its rules of procedure, both formal and informal.
- When in doubt, insert square brackets.
- Focus on substantive objectives and be flexible on wording when your instructions allow.
- Do not rush to fallback positions or the bottom line. And never give up on your mandate without consulting the head of delegation.
- You can create negotiating room by maintaining a strong position.
- Aim for the win-win situation, treating other States and their delegates courteously and honestly. Good relationships and trust are invaluable assets.
- Support the process and participate constructively, even in difficult situations. The multilateral system allows smaller States to be effective, even in the face of opposition from more powerful States.
- If you do not say something in the meeting, it is not in the official report. If it is important or if you want the record to reflect a particular position or issue, speak up.
- Responsible judgment is essential. Think twice before acting, or not acting. Do not accept anything at face value.
- Listen carefully to what is said and, just as importantly, to what is not said.
- Be wary of other delegations that seem to put your State's interests ahead of their own.
- Be prepared for practical necessities, including alternative transportation and sustenance. Carry local currency (in small denominations) as well as food and water. Eat when you can: you never know when your next meal will be.

This checklist draws upon a similar checklist from **Negotiator's Handbook for MEAs**, (UNEP/University of Joensuu/Government of Canada 2006).

CHECKLIST FOR STEPS TO PARTICIPATING IN NEGOTIATIONS

Following are some of the key steps for participating in negotiations. These include logistical, coordination, and negotiating matters. Some of the steps may apply to all delegations (such as confirming logistical delegations), while other steps might apply more to larger delegations (such as introducing members of the delegation).

- In the days leading up to the negotiating meeting:
 - Confirm local logistical arrangements.
 - Hold an initial meeting of the national delegation, at which you review the logistical arrangements and contacts; review the session schedule and assign responsibilities; and review the negotiation group meetings.
 - Consult key negotiation partners and institutions, including the Secretariat; and hold regional or like-minded group meetings (as appropriate).
- On the first day of negotiations:
 - Hold the first general meeting of the delegation; introduce the delegation; review logistics and contacts; review the general approach to negotiations, the roles of the members of the delegation, highlights of the first day and full session; arrange for subsequent meetings; consider holding a delegation reception.
- Throughout the negotiations:
 - Regularly and constantly consult key negotiation partners (especially like-minded delegations and regional groups, as well as the Secretariat).
 - Identify, track, and manage negotiations on specific issues as well as broader processes, ensuring that priorities are on track for resolution in the final document(s); identify the items that are particularly important and may need high-level decisionmaking.
 - Ensure that there is an appropriate flow of information between the delegation and key institutions back home.
 - Ensure proper consultation with the key institutions at home. This includes consultation, as appropriate, on overall and issue-specific developments, tactics, and interventions.
 - Provide for consultations with other national stakeholders, including local officials, sub-national agencies, and NGOs as appropriate or required.
 - Prepare for the High-Level Segment, as required.
 - Prepare delegation reports, gather important negotiation documents and relevant material from negotiation partners and from side events.
- In the days prior to departure and the final days of the negotiations:
 - Confirm logistics and travel arrangements for departure.
 - Ensure proper conclusion of agenda items, adoption of items in meeting report (e.g., continuation on the agenda is not necessarily a given);

Checklist for steps to participating in negotiations (cont'd)

consider input into draft meeting reports; make arrangements for follow-up and subsequent matters with the Secretariat and with negotiation partners; election of officers for subsequent sessions.

- If agreement is to be concluded or documents to be adopted, consider the need for final legal review, communications, and formalities (plan Ministerial formalities in advance).

This checklist draws upon a similar checklist from **Negotiator's Handbook for MEAs**, (UNEP/University of Joensuu/Government of Canada 2006).

CHECKLIST FOR STEPS TO FOLLOW AFTER NEGOTIATIONS

Following are some of the key steps for following up after negotiations. In the weeks after the negotiating meeting:

- As appropriate, draft or provide input to the delegation report on a timely basis. One way to facilitate this is to draft a preliminary report, that is circulated quickly followed by a final report. This ensures that the key information is circulated in a timely fashion.
- Consolidate meeting documents and related materials. If there is a central library or repository for negotiations (see discussion following Guideline 10(d)), provide it with a copy of these documents.
- Ensure appropriate debriefing of Ministerial/Departmental and other governmental stakeholders.
- Ensure official financial transactions are performed (e.g., between Ministries or Departments, to the Secretariat, etc.).

This checklist draws upon a similar checklist from **Negotiator's Handbook for MEAs**, (UNEP/University of Joensuu/Government of Canada 2006).

Assess the Geographical Scope of an MEA and Identify Interested States

[11] *To facilitate wide and effective participation by States in negotiations, the following actions may be considered:*

- (a) Assessment of whether the issue to be addressed is global, regional or subregional, keeping in mind that, where appropriate, States could collaborate in regional and subregional efforts to promote implementation of multilateral environmental agreements;*
- (b) Identification of countries for which addressing an environmental problem may be particularly relevant;*

MEAs can be global, regional, or sub-regional in scope. Determining the geographic scope of the problem (and the solution) being addressed is vital to ensuring that all interested States play a role in developing the new instrument. Moreover, many problems with global impact can be of particularly great interest to a specific region. Focusing on the geographic relevance of an MEA in both its text and its potential for implementation is an essential consideration during negotiations.

States join MEAs for different reasons. Many of these are discussed in the context of “Assessing Benefits and Costs of Ratifying, Complying with, and Enforcing MEAs” (immediately following the introduction to the Compliance Section, above). The reasons may be environmental (because addressing a particular environmental problem is also of interest to them), political (e.g., to show solidarity for other States), trade-related (e.g., an MEA may ban trade with non-Parties), and so forth. In identifying potential allies, all of these reasons should be considered.

Negotiating Blocs

There are many reasons for States to agree to negotiate as a group. With 192 Member States in the United Nations, developing consensus with more than 190 different actors can be lengthy. Developing common positions through negotiating blocs can greatly reduce the number of voices simultaneously seeking to be heard in the plenary discussions. This can expedite the negotiating process dramatically.

Negotiating blocs can increase the power of a particular position in the negotiations. As a practical matter, it can be useless for developing countries to try to defend a unilateral position in MEA negotiations, as delegations from developed countries often have more decision power. In contrast, the development and articulation of coordinated positions can lead to concessions.

Annex VIII of this Manual sets forth the memberships of key negotiating blocs.

Another key reason that States develop negotiating blocs is to be more effective with limited resources. Most developing countries and countries with economies in transition do not have the personnel or technical capacity to follow the simultaneous negotiations on different issues. Indeed, the lack of financial resources means that sometimes they cannot even afford to be physically present at negotiations. In such instances, States with similar interests may agree to divide the responsibilities: one State will follow one issue closely, while a second State follows another issue, and so forth.

Negotiating blocs can vary depending on the MEA, and sometimes even on the specific issue within an MEA. Many of the established negotiating blocs are enumerated in Annex VIII of this Manual. Most of these blocs are based on similarities among States. The similarities may be economic (e.g., the G7 and G77), geographic (e.g., AOSIS), regional (e.g., African Group), or political (e.g., EU).

For a negotiating bloc to function effectively, the constituent States need to have some basic level of trust and willingness to work together. Accordingly, the comparative effectiveness of some blocs can be attributed to the greater level of trust and comfort among the constituent States.

Negotiating blocs can function in different ways. The particular mode will depend to a large extent on the level of trust among the member states, as well as the nature of the negotiations. Some operational modes include:

- Designate one State to undertake negotiations. Except in exceptional circumstances, that State would not have the authority to bind the other States. The State may have the responsibility, though, to negotiate and possibly adopt the text of an agreement. The other States would then decide whether to ratify the agreement and thereby make it binding on them.
- Allocate negotiating responsibility among different States, with each State taking the lead on a different issue.
- Conduct negotiations through a pre-existing sub-regional or regional integration organization. This is usually the case with the EU, but other integration organisms (such as CARICOM, OECS, and CCAD) can also serve similar functions. These existing integration bodies provide an established forum for assessing country needs and then harmonizing conflicting positions into a common position. Moreover, such bodies often can provide a pool of policy, legal, scientific, and technical expertise.

There are many examples of States being more effective through participating in negotiating blocs. A few are listed here:

- In negotiating the Montreal Protocol, Governments of Central American States (operating through the CCAD) presented a joint position on climate change.
- Caribbean nations used a joint negotiating strategy at the 1992 UN Conference on Environment and Development (including the negotiations of the CBD), with the positions developed through a regional task force on environment and development.
- The Organisation for African Unity (OAU) held many discussions for African States to prepare for the UN Convention on the Law of the Sea negotiations. Similar regional groupings took place in Asia and Latin America. Following the development of common African positions, African and Asian States held joint meetings. In many instances, different negotiators within each block handled different issues, so that developing nations were able to have experts on each



CACMA – A NEGOTIATING BLOC FOR UNFCCC NEGOTIATIONS

In order to improve their negotiating power, a group of countries with economies in transition established an informal negotiating bloc for the UNFCCC negotiations in 2000. The group of Central Asian States, Caucasus States, Moldova, and Albania (CACMA) comprises 8 member States and two observer States, all of whom are non-Annex I Parties with economies in transition.

CACMA was established because several articles in the UNFCCC, Kyoto Protocol, and the COP decisions were formulated primarily for the benefit of developing country Parties. These provisions did not address the concerns of non-Annex I Parties with economies in transition. According to the terms of these provisions, non-Annex I Parties not having the status of developing countries (i.e., countries in transition) de jure are not eligible for the assistance set forth by these articles and decisions. However, in most cases, the UNFCCC Secretariat, financial institutions (such as the GEF and World Bank), and other international structures often view countries with economies in transition in a similar way to developing countries. By pooling their expertise and negotiating power, the CACMA has enabled countries with economies in transition to more effectively participate in UNFCCC negotiations.

For more information, contact gmep@access.sanet.ge

issue. In addition to strengthening the negotiating positions, this process sharpened negotiating skills.

- The Group of Latin American and Caribbean States (GRULAC) normally meets before major COPs to develop and discuss common negotiating positions.
- In the negotiations leading to the adoption of the UNFCCC, OECS Member States united with similarly situated States into an Alliance of Small Island States (AOSIS). Together, AOSIS was able to secure special recognition of the position of these states in the text of the Convention.

In many instances, ad hoc negotiating groups have been used effectively. In just as many instances, though, these ad hoc groups disappear after the event (often due to limited funding). States may wish to consider ways to maintain the continuity and capacity of these negotiating groups.

When negotiating blocs are utilized, the experts or officials who participate on behalf of the bloc need to ensure that they regularly brief the constituent States on the outcome of the negotiating sessions. The experts or officials also should solicit the views of States on the issues to be discussed in the forthcoming meeting(s).

Regional and Subregional Agreements

Regional and subregional efforts to facilitate implementation of MEAs can take the form of agreements that adapt an MEA to the particular context of that region or sub-region.

These agreements can foster ownership, and consequently enhance MEA implementation. Some examples include:

- the 1995 Waigani Convention, implementing the Basel Convention in the Pacific [see case study on “Pacific Regional Environment Programme (SPREP)” following Guideline 34(c)];
- the 1994 Lusaka Agreement, which contributes to the implementation of CITES in Africa [see case studies following Guidelines 43 and 48];
- the 1991 Bamako Convention, implementing the Basel Convention in Africa (<http://sedac.ciesin.org/entri/texts/acrc/bamako.txt.html>);
- various regional agreements in Central America designed to implement global MEAs and respond to regional environmental priorities (discussed in the case study on “Regional Agreements in Central America,” following Guideline 34(f)); and
- the numerous regional and subregional agreements developed pursuant to the Convention on Migratory Species (CMS) (<http://www.cms.int>).



[34(c)]

[34(f)]

[43]

[48]



AFRICAN MINISTERIAL CONFERENCE ON THE ENVIRONMENT (AMCEN)

AMCEN is the leading regional intergovernmental forum for environmental issues in Africa. AMCEN is a network of ministers responsible for environment in Africa; UNEP serves as the Secretariat of AMCEN.

Established in 1985, AMCEN provides a forum in which the Ministers can exchange views and reach consensus on issues of common concern among policymakers in all socio-economic sectors at the national, sub-regional, regional, and global levels. AMCEN promotes African programmes and policies relating to the environment and sustainable development, with an aim toward harmonising approaches within the region. It fosters dialogue on environmental issues in order to reach consensus (where possible) and to develop African common positions on global issues relating to environment and development. As such, AMCEN seeks to strengthen Africa's participation in global dialogues, negotiations, and actions addressing environment and sustainable development.

Before a number of global MEA meetings and negotiations, AMCEN has convened preparatory meetings. These preparatory meetings provide an opportunity to exchange information, identify priority issues, and develop common negotiating positions for the upcoming meetings. For example, in October 2002 AMCEN held an African preparatory meeting in Nairobi, Kenya before COP8 of the UNFCCC. At the conclusion of the meeting, the participating States made recommendations and requests to the Parties, UNEP, and the UNFCCC secretariat. Similarly, in 2000, AMCEN met to consult African delegations to the fourth session of the Intergovernmental Forum on Forests in New York and develop a common African position on various issues that would be negotiated regarding international arrangements and mechanisms for forests.

Further more information, see <http://www.unep.org/ROA/amcen/about.asp> or contact Peter.Acquah@unep.org

Financial Mechanisms to Facilitate Participation in Negotiations

[11] (c) *To facilitate wide and effective participation by States in negotiations, the following actions may be considered: Establishment of special funds and other appropriate mechanisms to facilitate participation in negotiations by delegates from countries requiring financial assistance;*

One of the major barriers to participation in negotiations by developing countries is funding. The importance of funding for capacity building, travel expenses, and other costs associated with international negotiations can be paramount for developing countries with limited resources. Without special funds and other appropriate mechanisms, delegates from developing countries often would not be able to participate. Thus paragraph 39.8 of Agenda 21 recognises that effective participation of developing countries in international law-making should be ensured through appropriate provision of technical assistance and/or financial assistance.

In selecting which negotiators to support, an issue that comes up with increasing frequency is the continuity of delegations. Where financing for negotiators from developing countries and countries with economies in transition is provided by a COP or other external funder, Governments often nominate different negotiators each time. This means that the negotiating team from a particular State may have no continuity. Thus, the progress that the State made in previous negotiations and the experience gained is not carried forward.

Note: Maintaining continuity of negotiators is important to ensure their effectiveness.

It has been suggested that MEA Secretariats (or other relevant institutions, as appropriate) could provide guidance about the composition of national delegations. This is a very sensitive issue. As a practical matter, the State is the final arbiter of the composition of its delegation. Thus, Secretariats may provide general indications of preference, but the States usually reserve the final decision to themselves.

New approaches may be necessary to improve the continuity and effectiveness of negotiating delegations. For example, some States are considering the development of national guidelines on the selection of delegates, participation in negotiations, and reporting back by negotiators. In some instances, the level of support that is provided for delegates is tied to their actual participation (e.g., through sign-up sheets that are passed), and there are suggestions that delegates who are funded may be required to provide summary reports.

Note: Timely nomination of experts is necessary to access funds to facilitate participation.



FUNDING FOR NEGOTIATORS FROM DEVELOPING COUNTRIES AND COUNTRIES WITH ECONOMIES IN TRANSITION

With the assistance of donor countries, UNEP and MEA Secretariats have established a mechanism to support the participation of representatives from developing countries and countries with economies in transition to participate in a wide range of multilateral meetings.

The participants are nominated by the Governments, based on criteria established by UNEP or the MEA Secretariats regarding the nature of the meeting or conference. The number of people per State that are supported depends on the availability of funds. Because a majority of the 192 UN States are developing countries, the funds are often not sufficient to pay for more than one participant per State.

Participant funding covers transport from the participating State to the place of the conference, and a Daily Subsistence Allowance (DSA), which covers lodging, food, and some other incidental costs. The DSA is country-specific (depending on the venue of the event) and frequently updated by the United Nations. Instead of paying the whole DSA to the members of the delegation, the organizers will sometimes pay in advance for their hotel and daily transport to the place of the conference, and give the participants the remaining sum.

Most of the funding to support the participation of developing countries and countries with economies in transition comes from Governments of developed countries. UNEP actively fundraises to obtain the financial commitments from donor countries (the monies are given as voluntary contributions), and UNEP administers the funds.

Since negotiations for MEAs often require many meetings over a period of years (the UN Convention on the Law of the Sea took ten years, but most take two to three years), the effectiveness of a State's participation depends to a large extent on the continuity of its delegation attending the meetings. While INC organizers and MEA Secretariats often strongly advise that negotiators should follow the process from the start and not be changed periodically, the ultimate decision on the composition of a negotiating delegation is usually reserved to the individual Governments.

Various mechanisms have been utilized by MEA Secretariats to encourage continuity in delegations and participation of delegates during negotiations. For example, some conferences and meetings have sign-in sheets (or similar mechanisms) that are circulated once or twice a day, and the precise amount of the DSA that is paid depends upon the extent to which the delegate is physically present. Similarly, for certain MEAs, Governments have been more careful about whom they select as experts and participants, which results in delegates being more familiar with the subject matter and engaged in the negotiations.

For more information on funding for negotiators, contact the relevant MEA Secretariat.



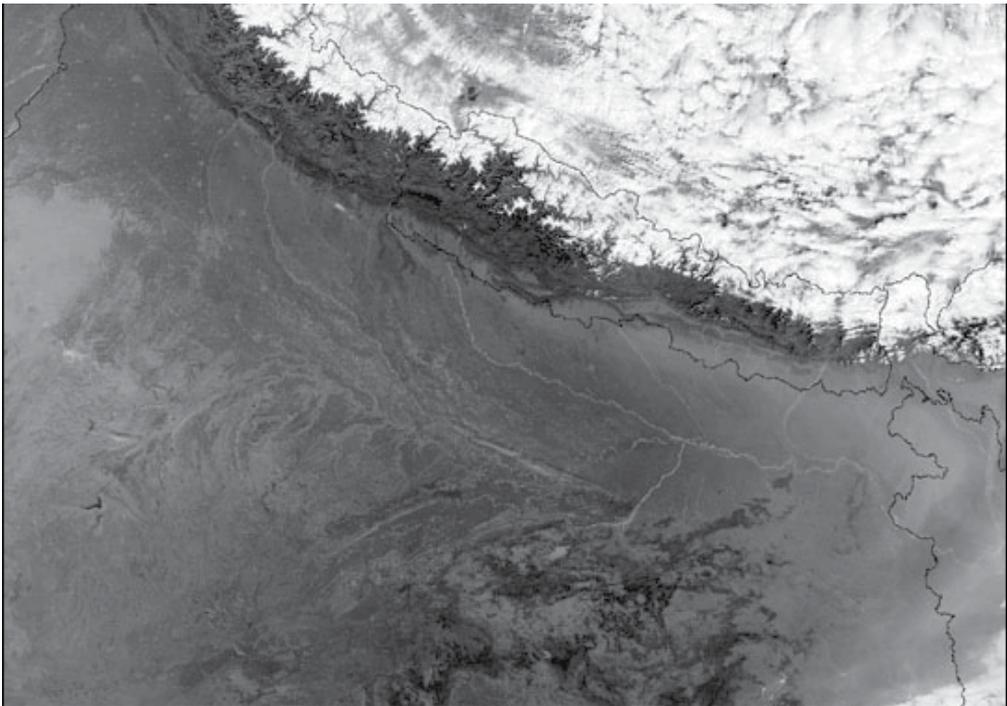
UNECE: LONG-RANGE TRANSBOUNDARY AIR POLLUTION CONVENTION

In 2003, the LRTAP convention established a special Trust Fund to facilitate the participation of countries with economies in transition (Decision 2003/11 of the Executive Body, ECE/EC.AIR/79 annex XI). Every year, the LRTAP Secretariat invites Parties to voluntarily contribute to the fund. The funds support the participation of enumerated countries with economies in transition to participate in “meetings of the Executive Body and its three main subsidiary bodies, giving highest priority to negotiating groups and other meetings directly linked to preparatory or ongoing negotiations.” Additionally, Albania, Tajikistan, Turkmenistan, and Uzbekistan can qualify for the funding “upon their accession to the Convention and their expressed intention to take part in the work of the Executive Body”

For more information, see

<http://www.unece.org/env/documents/2003/eb/air/ece.eb.air.79.add.1.e.pdf>

In addition to financial resources for facilitating participation of developing countries in negotiations, there are bilateral, multilateral, and convention sources of financial and technical resources for developing nations to access in implementing and enforcing multi-lateral environmental agreements. Guidelines 33 and 49(a), below, discuss such resources in further detail.



NASA photo

Air pollution over Bangladesh and India.

Embrace Specific Approaches to Encourage Participation in MEAs

- [11]** (d) *To facilitate wide and effective participation by States in negotiations, the following actions may be considered: Where deemed appropriate by States, approaches to encourage participation in a multilateral environmental agreement, such as common but differentiated responsibilities, framework agreements (with the content of the initial agreement to be further elaborated by specific commitments in protocols), and/or limiting the scope of a proposed multilateral environmental agreement to subject areas in which there is likelihood of agreement;*

Encouraging as many States as possible to participate in the MEA negotiating process requires bringing innovative and thoughtful approaches to the process. As noted above, there are many procedural devices used to broaden the negotiating process. This includes voluntary trust funds to enable developing country delegates to travel. There are also substantive means, such as reflecting differentiated obligations to an agreement. In some instances, the principle of “common but differentiated responsibilities” as set forth in the 1992 Rio Declaration on Environment and Development, is expressly cited as a basis for differentiated obligations.

Substantively, some MEAs have reflected a differentiated approach to commitments, depending upon the subject matter and other factors. Differentiation can have various purposes, can take many forms, and can make distinctions among many different kinds of states.

Purposes for differentiation have included, for example, the desire to assign a greater obligation to those States that have contributed more to a particular environmental situation; the desire to recognise the particular situation of one or more States; the desire to recognise that States may have different resources and/or priorities; and, as noted above, the desire to promote broad participation in the agreement.

In terms of types of differentiation, sometimes the commitments have been the same for all States, but the time frame has been different (such as the 10-year grace period in the Montreal Protocol). Sometimes, the commitments are different between or among categories of countries (such as between Annex I and non-Annex I Parties to the UN Framework Convention on Climate Change (UNFCCC) and the Kyoto Protocol). Sometimes, certain commitments are the same while other commitments, such as those related to funding or technology transfer, are differentiated (as with the Convention on Biological Diversity (CBD) and also with the UNFCCC, with only a subset of Annex I Parties subject to funding and technology transfer requirements).

There are a variety of ways that states are differentiated. Sometimes, there are clear categories (with lists naming particular states). Sometimes, there are categories, but they are less clear (such as “developed countries”). Sometimes, there are no categories per se, but obligations are subject to qualifiers such as capacity or circumstances. Sometimes, categories are based on stages of development, while in other instances there are different obligations based on other factors (such as geographic separation, such as North America under the various LRTAP protocols).

Differentiated obligations can sometimes be designed to evolve automatically (such as the Montreal Protocol's reliance on a State's per capita consumption of CFCs or the Basel Convention Ban Amendment's reliance on OECD membership). Some differentiated approaches have been written to expire (such as those under the London Protocol on Ocean Dumping).

As noted above, sometimes differentiation has been expressly based on the principle of "common but differentiated responsibilities" as set forth in Principle 7 of the Rio Declaration. The 1992 Rio Declaration on Environment and Development, in Principle 7, stated that States shall cooperate in the spirit of global partnership to conserve, protect and restore the health and integrity of the Earth's ecosystem. In view of the different contributions to global environmental degradation, States have common but differentiated responsibilities. The developed countries acknowledge the responsibility that they bear in the international pursuit of sustainable development in view of the pressures their societies place on the global environment and of the technologies and financial resources they command.

However, some MEAs reflect differentiation without citing that principle, either because the agreement predated the 1992 UN Conference on Environment and Development in Rio or because there is no agreement among states that the principle applies. For example, the preamble of the 1987 Montreal Protocol contains several nods in the direction of differentiation: "...bearing in mind the developmental needs of developing countries" and "acknowledging that special provision is required to meet the needs of developing countries..." In addition, sometimes an MEA reflects a variation of Rio Principle 7, such as the UNFCCC's reference to "common but differentiated responsibilities and respective capabilities" in its Article 3.

Another innovative approach is to establish a framework convention (or agreement). As their name suggests, framework conventions establish a "framework" for subsequent agreements, and they may be used where significant disagreements remain regarding specific measures to be taken. They generally lack specific commitments, and such details are set forth in subsequently negotiated protocols to the framework agreements. Such an approach enables Parties to proceed incrementally, reaching agreement where possible and noting areas that require further attention. Sometimes, an agreement is explicitly a framework convention (for example, on climate change, tobacco control, and protection of national minorities). In practice, though, many agreements depend on subsequent instruments to provide additional details (including regulated activities, standards, and compliance and enforcement mechanisms). Some high-profile framework conventions and their protocols include, for example:

- the 1979 United Nations Economic Commission for Europe (UNECE) Convention on Long-Range Transboundary Air Pollution and its eight protocols;
- the 1984 Protocol on Long-term Financing of the Cooperative Programme for Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe (EMEP);
- the 1985 Protocol on the Reduction of Sulphur Emissions or their Transboundary Fluxes by at least 30 per cent;

- the 1988 Protocol Concerning the Control of Nitrogen Oxides or their Transboundary Fluxes;
- the 1991 Protocol Concerning the Control of Emissions of Volatile Organic Compounds or their Transboundary Fluxes;
- the 1994 Protocol on Further Reduction of Sulphur Emissions;
- the 1998 Protocol on Heavy Metals;
- the 1998 Protocol on Persistent Organic Pollutants (POPs);
- the 1999 Protocol to Abate Acidification, Eutrophication and Ground-Level Ozone;
- the 1985 Vienna Convention for the Protection of the Ozone Layer, the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer, its London (1990) and Copenhagen (1992) amendments, and various adjustments [see case study, on next page];
- the 1992 Convention on Biological Diversity (CBD), and the 2000 Cartagena Protocol on Biosafety;
- the 1992 United Nations Framework Convention on Climate Change (UNFCCC), and the 1997 Kyoto Protocol;
- the 1998 United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention), and the 2003 Protocol on Pollutant Release and Transfer Registers; and
- the 2003 Framework Convention on the Protection and Sustainable Development of the Carpathians (a sub-regional instrument; see case study following Guideline 34(f)).

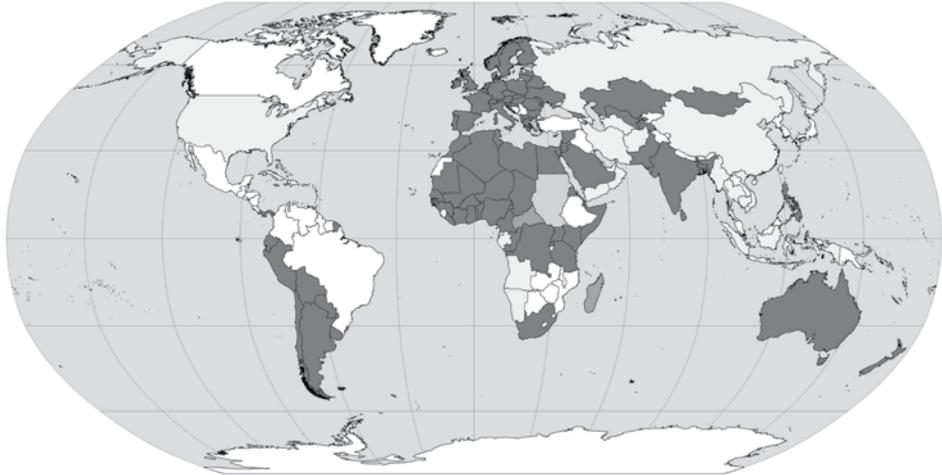


[34(f)]

The 1979 Convention on the Conservation of Migratory Species of Wild Animals (CMS) is a unique example of a framework convention. It recognises that in order for migratory species to be conserved, individual national actions (which CMS specifically provides for with respect to Appendix I species) need to be coordinated across the relevant migratory range through international cooperation. Article IV of the Convention and subsequent interpretations by the Conference of the Parties provide the basis for the intent to cooperate to be manifested in a variety of instruments. This flexible approach has resulted in the elaboration of a number of subsidiary instruments under the Convention's auspices that are tailored to the specific needs of the species at issue. They reflect a variety of governance structures. Most uniquely, they allow non-Parties to the Convention to become members of the subsidiary agreements (see following case study).

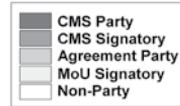
Convention on the Conservation of Migratory Species of Wild Animals

Map of 98 Parties (as of 1 August 2006)



The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.

2000 0 2000 Kilometers



AMENDMENTS AND ADJUSTMENTS TO THE OZONE MEAs

There are many uncertainties that face Parties implementing the Montreal Protocol, and Parties are not always able to agree on the specific measures required to implement the phase-out of ozone depleting substances (ODS). What are the target ODS? What sorts of alternatives are available, and are they feasible? What should be the timeframe for phasing out the various ODS?

In light of these uncertainties, the Montreal Protocol works through amendments and adjustments. An amendment is a change in the Protocol itself, while an adjustment refers to changes in timetables for phasing out a particular ODS. These amendments and adjustments are based on scientific review of the Vienna Convention and Montreal Protocol, identifying necessary changes to the commitments.

For more information, see <http://www.unep.org/ozone/>



INVOLVING NON-PARTIES IN CMS SUBSIDIARY AGREEMENTS AND MOUS

The Convention on the Conservation of Migratory Species of Wild Animals (CMS) has adopted a pragmatic stance with regard to non-Parties in subsidiary CMS agreements due to the nature of migratory species conservation: all range states need to coordinate their conservation activities across a migratory species' range for conservation efforts to be successful, whether they are Parties to CMS or not. Non-Parties may participate in the negotiation and implementation of subsidiary Agreements (legally binding), MOUs (non-binding), and Action Plans (stand-alone). Many of the subsidiary agreements developed to implement CMS to protect particular migratory species have been negotiated and implemented by Parties and non-Parties working together. These agreements include:

- 1990 Agreement on the Conservation of Seals in the Wadden Sea,
- 1991 Agreement on the Conservation of Populations of European Bats (EUROBATS),
- 1991 Agreement on the Conservation of Small Cetaceans of the Baltic and North Seas (ASCOBANS),
- 1995 African-Eurasian Waterbird Agreement (AEWA),
- 1996 Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea, and Contiguous Atlantic Area (ACCOBAMS),
- 2001 Agreement on the Conservation of Albatrosses and Petrels (ACAP).

In addition, CMS has facilitated the development of MOUs on various species, as well as an Action Plan for Sahelo-Saharan Antelopes. As a result, in addition to the 95 Parties to CMS (as of 1 March 2006), at least 23 non-Parties also participate in the broader CMS process through the subsidiary agreements and MOUs.

For more information, see <http://www.cms.int> or contact secretariat@cms.int



Additional Resources on Approaches to Encourage Participation in MEAs

Scott Barrett, *Environment and Statecraft: The Strategy of Environmental Treaty-Making* (Oxford University Press 2003), describes ways to craft MEAs so that it is in the best interest of countries to behave differently. Such strategies include developing incentives for countries to become parties to an MEA and to comply with the provisions of the MEA.

Philippe Cullet, *Differential Treatment in International Environmental Law* (Ashgate Publishing 2003).

Christopher D. Stone, "Common but Differentiated Responsibilities in International Law," 98(2) *Am. J. Int'l Law* 276 (2004).

The Principle of Common but Differentiated Responsibilities: Origins and Scope (2002), available at http://www.cisdl.org/pdf/brief_common.pdf.

See also the case study on "Additional Resources on Negotiation," following Guideline 11, which has numerous resources that address inter alia approaches to encourage participation in MEAs.

Ensure Transparency and Participatory Processes

- [11]** (e) *To facilitate wide and effective participation by States in negotiations, the following actions may be considered: Transparency and a participatory, open-ended process.*

Whatever procedures and format that the Parties to a new MEA choose to govern the negotiating and implementation processes, it is vital that the entire process is transparent and participatory. The importance of ensuring these elements in the MEA process is reflected in the conventions, laws, and policies addressing access to environmental information and participation from a substantive perspective.

A global philosophy of governmental openness with environment information, emphasized by Agenda 21, is beginning to find concrete expressions in States and regions throughout the world. Principle 10 of the Rio Declaration, calling for access to information, public participation, and access to justice in environmental matters has been widely acknowledged as an essential element of sustainable development and its importance was further emphasized in the outcome of the World Summit on Sustainable Development. The most detailed and binding articulation of this principle is the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (the “Aarhus Convention”). This agreement, administered by the United Nations Economic Commission for Europe (UNECE), guarantees freedom of access to information on the environment, gives citizens a right to participate in environmental decision-making, and provides for recourse to judicial and administrative remedies where these rights are denied by state authorities. Governments of the contracting Parties are mandated to collect and disseminate information on the environment to the public. Similar regional instruments can be found in the Americas, East Africa, and Asia (emerging), as well as specific provisions in numerous regional and global environmental agreements, declarations, and other instruments.

*For more information, see Carl Bruch (ed.), *The New “Public”: The Globalization of Public Participation* (2002).*

At the implementation phase, transparency reflects the degree to which knowledge and information about States Parties performance and adherence to their treaty commitments are adequate, accurate, and available for review and evaluation by treaty institutions, other Parties, and civil society as a whole. Accurate knowledge of what others are doing enhances the ability of an agreement’s Parties to coordinate their efforts and more effectively achieve the goals of the agreement. Moreover, it reassures Parties that their own compliance efforts will not be undercut by free riders.



PUBLIC PARTICIPATION IN THE DEVELOPMENT OF THE AARHUS CONVENTION

The UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (or Aarhus Convention) was adopted in 1998 and entered into force in 2001. In addition to being an advanced articulation of Rio Principle 10 that operationalises public participation in a region, the Aarhus Convention is innovative for the unprecedented level of NGO involvement in its conceptualisation, negotiating, drafting, signing, ratification, and implementation.

The Aarhus Convention grew out of the “Environment for Europe” process, which started in 1991. The Environment for Europe process seeks to pursue a coherent strategy for addressing Europe’s environmental problems, with particular emphasis on restoring the environments of countries with economies in transition from Communism. An integral part of this international effort has been to define the role of public participation in implementing sustainable development. In fact, officials in many of the countries in transition had formerly been in NGOs and thus supported efforts to improve transparency, participation, and accountability.

The third Ministerial Conference of the process, held in 1995, included environment ministers from 49 States from Europe, North America, and Central Asia (comprising most of the UNECE States), as well as from Australia, Japan, and Mexico. Representatives of the European Community and NGOs also attended. The Conference considered proposed UNECE Guidelines on Access to Environmental Information and Public Participation in Environmental Decision-making. Members of Global Legislators Organisation for a Balanced Environment (GLOBE) and NGOs asserted that the non-binding guidelines were too weak and that a stronger, binding convention was necessary. Ultimately, the Ministerial Declaration highlighted public participation as a key issue, and it recommended that development of a regional public participation convention with appropriate NGO involvement.

Participation of NGOs throughout the process has meant added technical and personnel resources in the negotiating process, a stronger Convention, increased public support for the outcome, and a broad-spectrum of advocates who assist in implementing the Convention. In addition to participating in drafting the Convention, NGO representatives served on official national delegations. The NGOs established a coalition called the “European ECO Forum,” which fielded a delegation that participated in the Environment for Europe conferences and drew upon a resource group of more than 200 public interest environmental experts who reviewed drafts, provided input, and suggested strategies.

In 1993, 1995, and 1998, NGOs held conferences that paralleled the ministerial conferences. NGOs also hosted country roundtables in 15 Central and East European nations, as well as some West European nations, to educate the public about the potential Convention. An NGO coalition in cooperation with the Regional Environmental Center for Central and Eastern Europe (REC) conducted and coordinated extensive

Public Participation in the Development of the Aarhus Convention (cont'd)

research on the state of environmental governance in the UNECE States. In 1994, the REC published a *Manual on Public Participation*, which assessed public participation practices and opportunities in Central and Eastern Europe, and was essentially a guide of best practices. Later, the REC published *Doors to Democracy*, a series of State-by-State assessments of trends and practices in Western Europe, Central and Eastern Europe, and the Newly Independent States, which stimulated NGO activity in this area.

NGOs continue to play a high-profile role in lobbying their States to ratify and implement the Aarhus Convention, and NGOs frequently provide technical and logistical assistance in developing implementing laws and regulations as well as working with Governments to raise public awareness about the Convention.

This case study was adapted from Carl E. Bruch & Roman Czebiniak, **"Globalizing Environmental Governance: Making the Leap from Regional Initiatives on Transparency, Participation, and Accountability in Environmental Matters,"** 32 *Environmental Law Forum* 10428, 10432 (2002).

For more information, see <http://www.unece.org/env/pp> and <http://www.participate.org/archive/archive.htm>

Assessment of Domestic Capabilities during Negotiations

[12] *Participating States could, in order to support their efforts to negotiate a multilateral environmental agreement and determine whether they would be able to comply with its provisions, assess their domestic capabilities for implementing the agreement under negotiation.*

States are encouraged to take an early and comprehensive approach to assessing their individual capabilities to implement an MEA that is under negotiation. This process frequently requires an assessment of existing laws and institutions in light of the pending agreement and a clear evaluation of what steps may be necessary before the State becomes a Party to the agreement. The earlier and more completely a State engages in this assessment and evaluation, the better are its chances to achieve full compliance with the MEA in a timely manner. Ideally, the assessment should begin before negotiations commence in order to allow the State to identify its goals and what it desires the pending MEA to achieve. It can be helpful for the assessment of domestic capabilities to continue through the negotiations, as the negotiations may raise the possibility of different options that were not foreseen in the initial assessment.

Among other factors, a State should assess whether there are any structural, institutional, legal, economic, or other national policy factors that may affect its ability to comply with the provisions of the MEA at the national, provincial (as appropriate), and local levels. This exercise should involve all relevant government and regulatory bodies whose authority involves the subject matter of the pending MEA. States that regulate environmental matters primarily or partially at the sub-national or local level may need to focus more heavily on ensuring internal cooperation and coordination, so that all government bodies regulating environmental matters are involved in this assessment. The federal States of the United States, Canada, and Australia offer useful examples of how this has worked in practice.



RESEARCHING DOMESTIC IMPLICATIONS OF BASELINES

Many MEAs require Parties to establish a baseline from which changes are measured. Changes may relate to reduction of emissions (e.g., “to X% of the baseline by year Y”) or provide a floor for Parties in conservation efforts (e.g., committing Parties to preserve a minimum net area of a particular ecosystem or type of habitat). In setting the baseline or establishing criteria for establishing a baseline, it is important to research fully the domestic consequences of choosing a particular baseline in an international agreement prior to its adoption.

If a State does not carefully consider the domestic implications, it can cause difficulties in later years. For example, when the EU adopted legislation to implement the Kyoto Protocol, one member state requested that its baseline emission of CO₂ should be adjusted because the State in the baseline year had had an exceptionally

Researching Domestic Implications of Baselines (cont'd)

large import of electricity from neighbouring States (lowering its own energy production and CO₂ emission).

This illustrates the importance of not only assessing the domestic implications of an MEA, but also the procedural importance of involving a range of experts in the assessment. While baselines may appear to be a straightforward and facially neutral issue, not favoring any particular State, baselines and other technical issues can entail surprises if not carefully assessed and considered in advance. Participation by line agencies and experts from the broader public can assist negotiators in identifying these opportunities and limitations before and during negotiations.



COORDINATION OF AUTHORITIES IN AUSTRALIA

Australia is a federal state with lawmaking powers shared under the Constitution between the Commonwealth Government, the States, and the Territories. The shared powers include law making regarding the environment. In turn, the States have established Local Government as a third tier of Government. The court system reflects the same dichotomy between the States and the Commonwealth, that is separate state courts and federal courts. The High Court of Australia stands at the apex of the national judicial system.

As a consequence of the shared powers of lawmaking, New South Wales does not have a unified code of environmental law. Rather, environmental law consists of an accumulation of environmental statutes, regulations, policies, and practices, together with judicial interpretation thereon, as well as the overlay of common law regarding nuisance, negligence, and land law. Although such a vast array of relevant bodies and laws presents a challenge to ensuring that an environmental agreement negotiated at the global level is complied with, it can be done, provided the internal assessment and evaluation carried out by the State is commenced at an early stage and is sufficiently comprehensive.

In addition to assessing domestic capacity to implement MEAs, States have developed approaches to assess the environmental, social, and economic impacts of trade agreements. This approach is called a Sustainability Impact Assessment (SIA), and is discussed below. Note that while SIA does not specifically address domestic capacity to implement MEAs, the methodology — which looks at the existing legal and institutional arrangements and potential implications of different policy options in international (trade) agreements — could be adapted to the context of assessing domestic capacity for adopting and implementing MEAs.



SUSTAINABILITY IMPACT ASSESSMENT IN THE EUROPEAN UNION

The European Union (EU) had developed Trade Sustainability Impact Assessments (SIAs) to integrate sustainable development (including environmental, social, and economic aspects) into its negotiating positions for trade agreements. SIA is a research process undertaken prior to and during trade negotiations that seeks to inform negotiators of possible effects of a particular policy. SIA highlights the potential economic, social, and environmental impacts of a trade agreement, so that the positive impacts can be maximized while minimizing the negative.

Trade SIAs are started once the Council has given the European Commission a mandate to negotiate a particular agreement. The SIAs are undertaken for all of the EU's significant trade negotiations, and they consider effects both within the EU as well as outside the EU. SIAs have two primary objectives. The political objective is to maximise the economic, social, and environmental benefits of trade liberalization. The other objective is to improve transparency in the development of European trade policy.

There are two complementary elements to trade SIAs: (1) the assessment of the environmental, social, and economic aspects; and (2) a public consultation and dissemination process.

SIA seeks to determine the best overall ensemble of domestic policies and international initiatives to obtain a positive outcome for both sustainable development and economic growth. In addition, the SIA can provide information for designing measures to accompany the policy, if necessary, to further enhance the policy's efficiency.

In order to ensure transparency, SIA studies are undertaken by independent consultants and made available to the public for its information and review. In order to provide guidance to the consultants, an internal consultation process is established. Where possible, impacts on third parties are also analysed. Consultation throughout the process helps to ensure that various stakeholders are involved in and understand the process while building legitimacy for the outcome and use of SIA results. Means for consultation include the use of e-mail, Web sites, and civil society meetings to exchange information; use of international expert commentary; and attendance at relevant conferences on impact assessment. These consultations have the benefits of improving public support for the trade negotiations and their ultimate outcome, as well as benefiting from the expertise of civil society and obtaining feedback.

The European Union (EU) carried out its first SIA in 1999, prior to the ministerial meeting of the World Trade Organisation (WTO) in Seattle. The process has since become a key component to the European Commission's general commitment to Sustainable Development. Accordingly, the EU has conducted assessments for other regional and bilateral negotiations with the WTO; with African, Caribbean, and Pacific States; with MERCOSUR; and with the Gulf Cooperation Council States.

Sustainability Impact Assessment in the European Union (cont'd)

Other States and institutions have undertaken processes similar to SIAs, analyzing the domestic impacts (including environmental impacts) of trade agreements.

For more information, see <http://europa.eu.int/comm./trade/issues/global/sia> and <http://www.sia-trade.org/>, or contact Colin Kirkpatrick at sia-trade@man.ac.uk or sia-emfta@man.ac

Provide Compliance-Enhancing Measures in an MEA

[13] *The competent body of a multilateral environmental agreement could, where authorized to do so, regularly review the overall implementation of obligations under the multilateral environmental agreement and examine specific difficulties of compliance and consider measures aimed at improving compliance.*

[14] *States are best placed to choose the approaches that are useful and appropriate for enhancing compliance with multilateral environmental agreements. The following considerations may be kept in view:*

- (a) Clarity: To assist in the assessment and ascertainment of compliance, the obligations of parties to multilateral environmental agreements should be stated clearly;*
- (b) National implementation plans could be required in a multilateral environmental agreement, which could potentially include environmental effects monitoring and evaluation in order to determine whether a multilateral environmental agreement is resulting in environmental improvement;*
- (c) Reporting, monitoring and verification: multilateral environmental agreements can include provisions for reporting, monitoring and verification of the information obtained on compliance. These provisions can help promote compliance by, inter alia, potentially increasing public awareness. Care should be taken to ensure that data collection and reporting requirements are not too onerous and are coordinated with those of other multilateral environmental agreements. Multilateral environmental agreements can include the following requirements:*
 - (i) Reporting: Parties may be required to make regular, timely reports on compliance, using an appropriate common format. Simple and brief formats could be designed to ensure consistency, efficiency and convenience in order to enable reporting on specific obligations. Multilateral environmental agreement secretariats can consolidate responses received to assist in the assessment of compliance. Reporting on non-compliance can also be considered, and the parties can provide for timely review of such reports;*
 - (ii) Monitoring: Monitoring involves the collection of data and in accordance with the provisions of a multilateral environmental agreement can be used to assess compliance with an agreement, identify compliance problems and indicate solutions. States that are negotiating provisions regarding monitoring in multilateral environmental agreements could consider the provisions in other multilateral environmental agreements related to monitoring;*
 - (iii) Verification: This may involve verification of data and technical*

information in order to assist in ascertaining whether a party is in compliance and, in the event of non-compliance, the degree, type and frequency of non-compliance. The principal source of verification might be national reports. Consistent with the provisions in the multilateral environmental agreement and in accordance with any modalities that might be set by the conferences of the parties, technical verification could involve independent sources for corroborating national data and information.

- (d) *Non-compliance mechanisms: States can consider the inclusion of non-compliance provisions in a multilateral environmental agreement, with a view to assisting parties having compliance problems and addressing individual cases of non-compliance, taking into account the importance of tailoring compliance provisions and mechanisms to the agreement's specific obligations. The following considerations could be kept in view:*
- (i) *The parties can consider the establishment of a body, such as a compliance committee, to address compliance issues. Members of such a body could be party representatives or party-nominated experts, with appropriate expertise on the relevant subject matter;*
 - (ii) *Non-compliance mechanisms could be used by the contracting parties to provide a vehicle to identify possible situations of non-compliance at an early stage and the causes of non-compliance, and to formulate appropriate responses including, addressing and/or correcting the state of non-compliance without delay. These responses can be adjusted to meet varying requirements of cases of non-compliance, and may include both facilitative and stronger measures as appropriate and consistent with applicable international law;*
 - (iii) *In order to promote, facilitate and secure compliance, non-compliance mechanisms can be non-adversarial and include procedural safeguards for those involved. In addition, non-compliance mechanisms can provide a means to clarify the content, to promote the application of the provisions of the agreement and thus lead significantly to the prevention of disputes;*
 - (iv) *The final determination of non-compliance of a party with respect to an agreement might be made through the conference of the parties of the relevant multilateral environmental agreement or another body under that agreement, if so mandated by the conference of the parties, consistent with the respective multilateral environmental agreement.*

Providing for compliance measures within the terms and structure of an MEA may further its implementation. Such provisions can involve a variety of measures, including:

- seeking to ensure that the terms of the MEA are set forth in clear and unambiguous language so that lack of understanding does not hinder compliance;
- requiring Parties to report on and monitor compliance;

- setting terms for mechanisms to address and remedy non-compliance; and
- empowering the MEA's Secretariat (the body responsible for administering the MEA) to periodically assess and evaluate compliance with the MEA and to consider measures aimed at improving compliance.

Such measures may be spelled out in the MEA, or the MEA may simply direct and empower the Conference of the Parties (COP) to develop such measures and mechanisms by a certain date or as soon as feasible. This latter approach may be followed in instances where the need for compliance measures and mechanisms has been recognised, but the specifics have yet to be studied or agreed upon. The structure and scope of the resulting measures and mechanisms will then later be adopted by an official COP decision.



AN OVERVIEW OF COMPLIANCE-ENHANCING MEASURES UNDER VARIOUS MEAs

Kyoto Protocol

Article 18 of the Kyoto Protocol to the UNFCCC required the COP, serving as the Meeting of the Parties to the Kyoto Protocol (COP/MOP), to approve at its first session “procedures and mechanisms” to determine and address cases of non-compliance with the Protocol. Considerable progress was made at COP7 in Marrakech, 2001, and the procedures were adopted.

Montreal Protocol

Article 8 of this MEA called on the Parties at their first meeting to “consider and approve procedures and institutional mechanisms for determining non-compliance with the provisions of this Protocol and for treatment of Parties to be in non-compliance.” A mechanism to monitor and assist States in non-compliance (the “Implementation Committee”) was subsequently established by the Parties and has operated effectively for over a decade.

Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)

The text of CITES goes further than a general enabling provision and expressly contains – in Article XII on International measures – cooperative procedures and institutional mechanisms for dealing with possible non-compliance. This text is further elaborated by resolution adopted by the Conference of the Parties [e.g., Resolution Conf. 11.3 (Rev. COP13) and Resolution Conf. 12.8 (Rev. COP13)] as well as related CoP decisions and specific cases of application.

Following a decision taken at the 12th meeting of the Conference of the Parties in 2002, work began on a draft set of Guidelines on Compliance with the Convention. A Working Group on Compliance, established by the Standing Committee in 2004 to

An Overview of Compliance-Enhancing Measures under Various MEAs (cont'd)

finalize the Guidelines, met several times on the margins of CoP13 (2004) and SC53 (2005) and will next report at SC54 (2006). The draft Guidelines address: objectives; general principles; various bodies and their tasks; general promotion, monitoring, and reporting of compliance; Party-specific facilitation of compliance; identification and addressing of non-compliance and restoring of compliance; and a review of overall compliance.

For more information, see <http://www.cites.org/> or [contact cites@unep.ch](mailto:contact_cites@unep.ch).

Convention on Biological Diversity

At the 2002 Conference of the Parties to the CBD, the COP, as part of its regular review of overall implementation of the CBD's obligations, examined special difficulties of compliance faced by Parties. It emerged with a Strategic Plan for the Convention on Biological Diversity to guide its further implementation at the national, regional, and global levels.

Two years later, at its seventh meeting (February, 2004), the Conference of the Parties to the CBD established an Ad Hoc Open-ended Working Group on Review of Implementation of the Convention with the following mandate:

- (a) to consider progress in the implementation of the Convention and the Strategic Plan and achievements leading up to the 2010 target of reducing the rate of biodiversity loss in line with the multi-year programme of work for the Conference of the Parties;
- (b) to review the impacts and effectiveness of existing processes under the Convention as part of the overall process for improving the operations of the Convention and implementation of the Strategic Plan; and
- (c) to consider ways and means of identifying and overcoming obstacles to the effective implementation of the Convention (decision VII/30, paragraph 24).

For more information, see <http://www.biodiv.org> or [contact secretariat@biodiv.org](mailto:secretariat@biodiv.org)

Cartagena Protocol on Biosafety

Article 34 of the Cartagena Protocol on Biosafety to the Convention on Biological Diversity provides that the Conference of the Parties to the Convention serving as the meeting of the Parties to the Protocol (COP-MOP) shall, at its first meeting, consider and approve cooperative procedures and institutional mechanisms to promote compliance with the provisions of the Protocol and to address cases of non-compliance. The procedures and institutional mechanisms on compliance were adopted at the first meeting of COP-MOP, held from 23-27 February 2004, in Kuala Lumpur, Malaysia. Decision I/7 established a Compliance Committee, pursuant to Article 34.

For more information, see <http://www.biodiv.org> or [contact secretariat@biodiv.org](mailto:secretariat@biodiv.org)



Additional Resources On Compliance Mechanisms

In addition to the case studies and analyses discussed in Guidelines 14-17, a number of resources are available that address how various MEAs have developed reporting, review, and compliance mechanisms to facilitate Parties and MEA Secretariats in promoting compliance with MEAs. In addition to providing information on the structure and approach of the individual mechanisms, these resources also provide insight into how the various mechanisms can complement one another. Some of these resources include:

Kal Raustiala, *Reporting and Review Institutions in 10 Multilateral Environmental Agreements* (2001), available at <http://www.unep.org/GEO/techreports.htm> (covering the Ramsar Convention, World Heritage Convention, CITES, CMS, UNCLOS, Montreal Protocol, Basel Convention, UNFCCC, CBD, and UNCCD, as well as review institutions at the International Labour Organization, the World Trade Organization, the NAAEC, international human rights regimes, arms control agreements, and the World Bank).

Linda Nowlan & Chris Rolfe, *Kyoto, POPS and Straddling Stocks: Understanding Environmental Treaties* (2003), available at <http://www.wcel.org/wcelpub/2003/13929.pdf>.

See also the resources listed in the Bibliography in Annex VI.

National Implementation Plans

- [14]** (b) *National implementation plans could be required in a multilateral environmental agreement, which could potentially include environmental effects monitoring and evaluation in order to determine whether a multilateral environmental agreement is resulting in environmental improvement;*

National Implementation Plans (NIPs) seek to promote compliance in a deliberate and proactive manner. Generally, these plans set forth in a protective manner how a State will strive to reach its obligations under an MEA. Components can include identifying sources of non-compliance (e.g., laws, institutions, lack of capacity, social norms, public and private sector considerations, etc.), methods for addressing these sources, monitoring implementation, and identifying funding resources. NIPs can also provide for the establishment of a national implementation agency or organisation that works with the MEA Secretariat to promote implementation.

Several MEAs require Parties to develop NIPs that detail how they intend to comply with their obligations under an MEA. These include, for example, the Convention on Biological Diversity (CBD), the Cartagena Protocol, the Convention to Combat Desertification (UNCCD), the Stockholm Convention on Persistent Organic Pollutants (POPs), and the Rotterdam Convention on Prior Informed Consent (PIC). The case studies below highlight many of these.

For other MEAs, NIPs might be required to access funding. Thus, while the Montreal Protocol does not require Parties to prepare NIPs, those developing countries wishing to access financial and technical assistance from its financial mechanism, the Multilateral Fund must develop a comprehensive national survey that the State plans to follow to eliminate its consumption and production of Ozone Depleting Substances (ODS), known as a “Country Programme” (see following case study). The procedures for the development of a country programme for the Multilateral Fund can be found in the Policies, Procedures, Guidelines and Criteria of the Fund, available at <http://www.multilateralfund.org>.

The specific process for developing a NIP and the contents of a NIP are usually set by the particular MEA and the MEA Secretariat, although financial mechanisms such as the Multilateral Fund and the Global Environment Facility (GEF) that provide funding to nations to develop country programmes and NIPs may also develop guidelines covering the preparation of such plans. For example, the UNCCD requires each Party to the Convention to develop a National Action Plan (NAP). The NAP is one of the essential implementation tools of the UNCCD, and its production is guided by principles provided in the Convention. These principles stress the importance of consultation and participation in its implementation. The NAP preparation process begins with community and regional consultations to sharpen awareness among the various stakeholders. The second stage is the holding of a National Forum to formulate priorities. The drafting of the NAP is, therefore, partly the product of a consultative, participatory, multi-stakeholder process.

In addition to promoting the objectives of MEAs, NIPs can assist States in many ways. NIPs can identify legal, policy, and institutional strengths and weaknesses. The process can also assist States in identifying and evaluating the costs of implementation. As implementation can impose significant economic burdens at different stages, States may wish to assess costs at all stages in the process to allow for sufficient planning and budgeting. Thus, for example, national implementation plans can assist States in identifying priorities for requests for donor funding, as well as necessary allocations of domestic budgetary resources to implement MEAs. [For more information on cost-benefit analysis, see the discussion at the beginning of the Compliance Chapter of this Manual and the discussion following Guideline 40].



[40]

In addition to NIPs that address a specific MEA, NIPs can apply to a group of MEAs. For example, GEF and its implementing institutions have supported the National Capacity Self-Assessment (NCSA) process in many States. As described in case studies following Guideline 41(n), States conducting an NCSA review national laws, policies, institutions, and initiatives to assist in identifying priorities for capacity building and to provide a framework for national implementation of the Rio Conventions (CBD, UNCCD, and UNFCCC) and possibly other MEAs.



[41(n)]

A variety of national and international institutions are involved in funding, preparing, reviewing, and implementing NIPs. The MEA Secretariats and COPs usually provide the initial mandate, and they generally monitor the development and submissions of NIPs. Through COPs, MEA Secretariats and Parties can — and sometimes do — establish a core group of experts to provide advice and assistance to States in developing NIPs. The Global Environment Facility (GEF) and its implementing agencies (especially UNEP, UNDP, and the World Bank) provide funding to many States to facilitate the development of NIPs under various MEAs, through GEF “enabling activities.” These include NIPs (by one name or another) pursuant to the UNFCCC, CBD, Cartagena Protocol, and POPs Convention. Many of these are summarised in the case studies that follow.

For those interested in more information on NIPs, a number of other Guidelines include relevant experiences and analysis. Guideline 21 provides more information on the process of elaborating NIPs. Guidelines 40 and 41 include information on National Environmental Action Plans (NEAPs) and other plans and strategies, which although not necessarily oriented toward a particular MEA which often need to take MEAs and NIPs into account (and vice versa). Increasingly, NIPs also provide opportunities to identify and promote synergies with other MEAs. In addition to the case studies relating to this Guideline, Guidelines 34(h) provides additional discussion and case studies regarding synergies and interlinkages.



COUNTRY PROGRAMMES (CPs) AND REFRIGERANT MANAGEMENT PLANS (RMPs) UNDER THE MONTREAL PROTOCOL

One starting point for the activities of a national focal point under an MEA is in the focal point's own State. A key first step is preparing and adopting a national strategy to comply with the MEA.

In the context of the Montreal Protocol on Substances that Deplete the Ozone Layer, the Country Programme (CP) is the first activity that the Protocol's financial mechanism, the Multilateral Fund (MLF), finances in developing countries (referred to as "Article 5 countries"). The CP is the strategy that the developing country plans to follow to eliminate the consumption and production of Ozone Depleting Substances (ODS), following the Montreal Protocol schedules. A country programme defines the strategy and provides the frame work for a State's national ODS phase-out plan or, in States that consume low volumes of ODS, a refrigerant management plan. It contains a review of recent production, imports, applications, and use of controlled ODS; a description of the institutional framework governing controlled ODS; a description of the policy framework and industry activities in response to the Montreal Protocol; an action plan with a timetable for each activity; and an indication of the funding from the Multilateral Fund for projects and activities to phase out controlled ODS.

A country programme must be approved by the MLF's Executive Committee, since it is a prerequisite for a State to obtain further financial support from the Multilateral Fund. The Executive Committee comprises members from seven developed and seven developing countries and is responsible for the operation of the US\$2.1 billion Fund.

Once the Committee approves a country programme, the relevant State works together with one or more of the MLF's implementing agencies (including UNDP, UNEP, UNIDO, the World Bank, and a number of bilateral agencies) to prepare and implement projects and activities. Funding for these projects and activities is approved by the Executive Committee only after a thorough review process.

Almost all Article 5 countries now have approved country programmes. New Parties are provided with preparatory funding to prepare a combined country programme/ refrigerant management plan.

All countries with a country programme are required to provide data on the progress made in implementing their country programmes to the MLF Secretariat in order to obtain continuing support for institutional strengthening to maintain their National Ozone Units (NOUs). The Fund Secretariat uses this country programme data when analyzing the status of compliance of Article 5 countries with the Montreal Protocol.

This agreement specifies the reduction targets to be achieved, the total funding agreed in principle, and a schedule for disbursement. The agreement requires independent verification of the achievement of the annual reduction targets as a condition for the disbursement of funds according to schedule. These performance-based funding agreements facilitate compliance by placing national Governments in a position to

Country Programmes (CPs) and Refrigerant Management Plans (RMPs) under the Montreal Protocol (cont'd)

implement their commitments under the Montreal Protocol.

For more information on country programmes, see "Creating a Real Change for the Environment," a brochure on the MLF, available from

<http://www.multilateralfund.org>

In many countries, particularly countries that consume low volumes of ODS, the CPs are combined with Refrigerant Management Plans (RMPs) since those countries typically use almost all their ODS in the refrigeration and air conditioning sectors.

An RMP is a comprehensive strategy to phase out the use of ozone-depleting refrigerants used to service and maintain refrigeration and air conditioning systems. It may include actions to reduce ODS consumption and emissions, reduce the need for further servicing by controlling new installations and restricting imports of equipment that depend on ODS for their functioning, and promote retrofitting and replacement of existing equipment. Regulations, economic incentives and disincentives, training, and public awareness activities are some of the tools used to achieve these goals.

The successful implementation of RMPs requires the coordination of activities in different ODS-using sectors, including:

- Manufacturing;
- Servicing;
- End-users sectors;
- Regulatory and trade controls;
- Economic incentives and disincentives;
- Training on good practices in refrigeration for service technicians;
- Training for customs officers;
- Establishing recovery and recycling programmes; and
- Public awareness campaigns

The Multilateral Fund provides financial and technical assistance to help developing countries establish, implement, monitor, and update their CPs and RMPs.

For more information, see <http://www.unep.fr/ozonaction> or contact ozonaction@unep.fr



DEVELOPING A DESERTIFICATION NATIONAL ACTION PLAN IN SUDAN

Sudan has a long experience in combating desertification, which is the major environmental challenge in the State, and Sudan was one of the first States to sign and ratify the UNCCD. The process of developing Sudan's Desertification National Action Plan builds upon not only its commitments under the CCD, but also upon earlier initiatives aiming to address desertification from a purely domestic perspective.

In 1977, Sudan prepared a detailed document – its **Desert Encroachment Control and Rehabilitation Programme** – which was presented to the UN Conference on Desertification. Following that conference, Sudan established the National Desertification Control and Monitoring Unit (NDDU) in 1978. The NDDU received technical assistance from UNDP/UNSO which enabled it to conduct a series of workshops in five regions of the State, at which desertification was discussed. Drawing upon these experiences and others, Sudan participated in the negotiating process that culminated in the UNCCD.

With technical assistance from the EU in 1993, the NDDU established a Geographic Information System (GIS) and undertook a thorough study of the extent of desertification. For the first time, Sudan was able to quantify the extent of desertification and incipient desertification in the State: 50.5% of the areas between latitudes of 10° and 18° were found to be prone to desertification.

The NDDU also received funds from UNDP/UNSO in 1997 to prepare Sudan's National Action Plan (NAP). The NDDU embarked on an extensive consultative process in 1998. Facilitators were selected equally from NGOs and governmental institutions to participate in the consultative workshops, which were carried out in 13 of the states affected by desertification. The participants in each state consultative workshop came from local NGOs, farmer and pastoralist unions, women, youth, governmental institutions, projects funded by international organisations, the media, and the private sector. In July 1998, three thematic workshops were conducted at the national level to discuss the national desertification fund, adoption of scientific methodologies, and strengthening trust and coordination among all stakeholders.

In October, a national forum was held in Khartoum where five papers were presented and discussed by 126 participants from the affected states and Federal Government. The papers focused on the following themes: funding mechanism, capacity building and human development, traditional knowledge, programme priorities and coordination and monitoring and evaluation. A parallel effort was carried out by the NGOs National Coordinating Committee for Desertification (NCCD). Following the forum, the NDDU was restructured and renamed the National Drought and Desertification Control Unit (NDDCU). The NDDCU and NCCD coordinated their efforts, especially in the area of raising awareness about the UNCCD.

The Arab Organization for Agricultural Development financed the production of the NAP for Sudan in its 2002 draft form.

For more information, contact Ms. Fathia S. Musa of the National Desertification Control and Monitoring Unit (NDDCU) at fathiasalih@hotmail.com or by telephone at +249 1 83 772023.



NATIONAL BIODIVERSITY STRATEGIES AND ACTION PLANS (NBSAPs) TO IMPLEMENT THE CBD

The development and implementation of National Biodiversity Strategies and Action Plans (NBSAPs) constitute the cornerstone of national implementation of the CBD. NBSAPs are developed through a national consultative and participatory process involving all relevant stakeholders. It assesses the status and trends regarding biological diversity (including the laws, policies, institutions, and conservation initiatives); identifies problems and constraints; and establishes policies, strategies, and actions required to effectively implement the Convention and to enhance the conservation and sustainable use of biological diversity within specific timeframes. Such actions may include integration of biodiversity concerns into other areas (also known as “mainstreaming”). To-date such strategies and action plans have been developed in over 100 States.

For more information, contact secretariat@biodiv.org. See also the case study on “A Participatory Process for Developing Trinidad & Tobago’s NBSAP” following Guideline 41(k).



[41(k)]



NATIONAL IMPLEMENTATION PLANS (NIPs) UNDER THE STOCKHOLM CONVENTION ON PERSISTENT ORGANIC POLLUTANTS

NIPs are the primary tool for a Party to prepare for compliance under the Stockholm Convention on Persistent Organic Pollutants (POPs). Under Article 7 of the Convention, a NIP should: be tailored to the needs of the Party, use existing national structures, integrate national sustainable development strategies, and retain flexibility to respond to the listing of new chemicals. There is a five-step process for developing a POPs NIP:

1. Determining coordinating mechanisms and organisations;
2. Establishing a POPs inventory and assessing national infrastructure and capacity;
3. Setting priorities and determining objectives;
4. Formulating a prioritized and costed NIP and Specific Action Plans on POPs; and
5. Endorsement of the NIP by stakeholders.

When a State prepares its national profile, it assesses its infrastructure capacity and institutions to manage POPs, including regulatory controls; needs; and options for strengthening them. The State also assesses its enforcement capacity to ensure compliance. Based on the inventory, infrastructure, capacity, priorities, and objectives identified, the NIP can include a variety of possible activities to implement the Convention, including: drafting of new legislation and/or regulations; strengthening of compliance and enforcement of existing regulations; and capacity building activities. UNEP, supported by the Global Environment Facility (GEF), is executing a pilot project

National Implementation Plans (NIPs) under the Stockholm Convention on Persistent Organic Pollutants (cont')

in 12 States aimed at developing and implementing NIPs. In some instances, these pilot projects are facilitating the development of the necessary implementing measures to enable States to ratify the Stockholm Convention. In addition, UNEP is supporting a further 42 States in developing their NIPs, and in total 120 NIPs are being supported by the GEF through projects executed by UNEP and other GEF implementing and executing agencies (including UNDP and UNIDO).

For more information, see <http://www.pops.int> or contact ssc@chemicals.unep.ch



BIOSAFETY CAPACITY NEEDS ASSESSMENTS

In January 2000, the Conference of the Parties to the Convention on Biological Diversity adopted the Cartagena Protocol on Biosafety, which addresses the transfer, handling and use of Living Modified Organisms (LMOs) which are usually referred to as Genetically Modified Organisms (GMOs).

Following adoption of this protocol, GEF and UNEP initiated a capacity building strategy for States parties, through a joint project on development of National Biosafety Frameworks (NBFs). The objective of NBFs is to prepare States to meet their obligations under the Protocol, and this project provides funding to assist the States in preparing NBFs. Although NBFs are country-specific, they usually contain five common elements:

- a governmental policy on biosafety;
- a regulatory regime for biosafety (usually, this includes provisions from framework legislation, as well as implementing regulations and guidelines);
- a system for managing notifications or requests for authorizations for certain activities (e.g., releases of GMOs into the environment);
- enforcement and monitoring systems; and
- systems for collecting, exchanging, and disseminating public information and for involving the public in decisionmaking processes.

In order to ensure that the State receiving assistance is committed to preparing the NBF and to subsequently implementing the NBF, GEF requires that the State have not only signed, but also ratified, the Cartagena Protocol. The State is also required to contribute a third of the resources to meet the overall costs of preparing the NBF; this contribution is usually provided through staff resources, office space, etc.

In 2004, 123 States were in the process of elaborating their national NBF, and 12 were implementing their NBF (with GEF funds).

For more information, see <http://www.unep.ch/biosafety/>



RAMSAR SITE MANAGEMENT PLANS

Many States have developed site-specific management plans for wetlands that they have designated as Ramsar sites under the Ramsar Convention on Wetlands. The Ramsar Secretariat encourages Parties to integrate Ramsar site management plans into the public development planning system at the local, regional, or national level. This integration of site management plans into spatial and economic planning at the appropriate level will facilitate the implementation, public participation, and local ownership of the plans. Furthermore, integration can enhance the opportunities for funding from local and external sources.

To find out which designated Ramsar sites have a management plan, see the Ramsar sites database at <http://www.wetlands.org/RSDB/default.htm> Some of the management plans are available from the Ramsar Secretariat. To request information on specific management plans, the request can be addressed to ramsar@ramsar.org



Muskrat lodge, wetlands.



NATIONAL ADAPTATION PROGRAMMES OF ACTION (NAPAs) UNDER THE CLIMATE CHANGE CONVENTION

In 2001, the 7th COP of the UNFCCC recognised that developing countries needed assistance in developing plans to address the adverse effects of climate change. In particular, the COP decided that the Least Developed Countries (LDCs) “should be assisted in preparing National Adaptation Programs of Action (NAPAs) to address urgent and immediate needs and concerns related to adaptation to the adverse effects of climate change.” The COP also requested the Global Environment Facility (GEF) to provide funding for preparing NAPAs as the first activity supported by the LDC Fund (which the COP had just established). The next month, the GEF Council authorized GEF support to LDCs for the preparation of NAPAs.

NAPAs seek to provide a basic framework for communicating “the urgent and immediate adaptation needs of the LDCs.” The 7th COP recommended that NAPAs should be action-oriented, country-driven, and widely endorsed. To achieve this, the COP issued several recommendations regarding the process for preparing NAPAs. For example, NAPA teams should include Government and civil society, and the teams should “identify key climate-change adaptation measures, based, to the extent possible, on vulnerability and adaptation assessment.” However, “if a State wishes to depart significantly from the process recommended by COP 7”, the GEF will consider the reasons for the alternative process.

NAPAs also provide an avenue for linking issues associated with implementing the three Rio Conventions (CBD, UNCCD, and UNCCC).

The implementing agencies through which GEF will provide assistance are UNEP, UNDP, and the World Bank. Because NAPAs and initial national communications are closely interlinked, GEF recommends that a State keep the same agency for both. The preparations of NAPAs are expected to be completed within 12 to 18 months of the availability of funds, but it depends on each State’s situation.

For more information,

see http://www.gefweb.org/NAPA_guidelines_revised_April_2002_.pdf



Additional Resources On National Implementation Plans

Winston Anderson, “Domestic Programs for Implementing Multilateral Environmental Agreements: Establishing MEA Implementation Mechanisms,” in Proceedings of the Sixth International Conference on Environmental Compliance and Enforcement Vol. 1 (INECE 2002), available at <http://www.inece.org/conf/proceedings2/22-DomesticPrograms.pdf>

Implementation of Multilateral Environmental Agreements for Efficient Water Management (2005), by the Foundation for International Environmental Law and Development (FIELD) (examining how national implementation plans under various MEAs can provide guidance in designing and applying national water policies and promoting integrated water resource management).

See also the text and case studies following Guideline 21.

Reporting, Monitoring, and Verification

- [14]** (c) *Reporting, monitoring and verification: multilateral environmental agreements can include provisions for reporting, monitoring and verification of the information obtained on compliance. These provisions can help promote compliance by, inter alia, potentially increasing public awareness. Care should be taken to ensure that data collection and reporting requirements are not too onerous and are coordinated with those of other multilateral environmental agreements. Multilateral environmental agreements can include the following requirements:*
- (i) *Reporting: Parties may be required to make regular, timely reports on compliance, using an appropriate common format. Simple and brief formats could be designed to ensure consistency, efficiency and convenience in order to enable reporting on specific obligations. Multilateral environmental agreement secretariats can consolidate responses received to assist in the assessment of compliance. Reporting on non-compliance can also be considered, and the parties can provide for timely review of such reports;*
 - (ii) *Monitoring: Monitoring involves the collection of data and in accordance with the provisions of a multilateral environmental agreement can be used to assess compliance with an agreement, identify compliance problems and indicate solutions. States that are negotiating provisions regarding monitoring in multilateral environmental agreements could consider the provisions in other multilateral environmental agreements related to monitoring;*
 - (iii) *Verification: This may involve verification of data and technical information in order to assist in ascertaining whether a party is in compliance and, in the event of non-compliance, the degree, type and frequency of non-compliance. The principal source of verification might be national reports. Consistent with the provisions in the multilateral environmental agreement and in accordance with any modalities that might be set by the conferences of the parties, technical verification could involve independent sources for corroborating national data and information.*

MEAs can require that Parties monitor, report, and verify environmental compliance data. Reporting, monitoring, and verification measures can assist States in tracking their compliance under the respective MEAs. These requirements vary in formality and reporting methodologies. As technology has evolved, compliance-related information systems with computerised databases are increasingly used to collect, sort, and process this information (see, for example, the TIGERS database, described in a case study following Guideline 48(c)). The advantages of using compliance-related information systems include increased transparency, ease of data analysis and verification, and increased efficiency, organisation, and prompt compilation of data.



Where limited resources mean that computerised databases are not available to track environmental data, other more traditional methods can be used.

The most important feature of reporting is that it requires Parties to MEAs to assess — in a transparent manner — the measures that they have taken to implement their commitments and consider the effectiveness of those measures. This helps the Parties, the MEA Conference of Parties (COP) and Secretariat, and other interested bodies to discern potential trends in compliance and enforcement, identify innovative approaches that might serve as models for other States, and allocate resources to improve compliance and enforcement.

Two reports by the United Nations examined national reporting under MEAs. In 2003, the Division for Sustainable Development of the UN Department of Economic and Social Affairs (DESA) prepared a provisional matrix containing the UN national reporting provisions relating to issues of concern to the Commission on Sustainable Development (CSD). In 2004, the UN Secretary-General submitted a report to the 12th session of the CSD that reviewed the improvements made in national reporting and highlighted further work to be undertaken on indicators of sustainable development. Together, these studies identify many common approaches and lessons learned, as well as some new innovations.

They noted that national reports are one of the main instruments by which MEA COPs fulfill their mandate to monitor and review activities undertaken by Governments to implement the treaties. The MEA Secretariat is usually the lead organisation for developing the report format, receiving and disseminating the reports, and generally administering the national reports, although other agencies are sometimes involved. For most MEAs, the national focal point prepares the national report. Usually, the national focal point (for MEAs) is the Ministry of Environment, but sometimes they are other ministries such as the Ministry of Agriculture, Foreign Affairs, or Industry.

For most MEAs, national reporting is mandatory and reports are usually submitted in advance of COP meetings. The periodicity of national reports varies from one MEA to another: from every six months for developed countries under the UNFCCC, to triennial reports for the Ramsar Convention. Reports for international meetings not associated with a particular MEA — for example, the 2002 World Summit on Sustainable Development (WSSD) and the annual CSD reports — are often generated voluntarily. In some instances, reports are prepared by regional groupings of States.

Reporting methodologies tend to be generally qualitative, although some statistical data often is incorporated. Many MEA Secretariats have developed guidelines or manuals to assist States in fulfilling their reporting obligations. These guidance materials usually are available on the Secretariats' web sites.

In 2002 and early 2003, the CSD Secretariat analysed experiences with UN national reports. The analysis revealed that the guidelines prepared prior to the WSSD for national reporting to the CSD were too lengthy and technical. It attributed these difficulties to "attempts to meet the information needs of various United Nations organisations and agencies that were consulted on the formulation of the guidelines." It was also apparent that some questions in the previous reporting guidelines "were too open-ended, resulting

in a wide range of responses that were difficult to aggregate into regional or global trends on implementation.” Based on these lessons learned, the CSD Secretariat adopted a more streamlined approach to guidelines for national reporting to the CSD for the first post-Summit reporting cycle.

For national reporting on the three themes under review (water, sanitation, and human settlements), instead of formulating an extensive set of guidelines as was done before the WSSD, the 2003 guidelines for national reporting (for the 2004-2005 cycle), were pared down to a generic set of national reporting parameters, which also can be used in future cycles.

To reduce the burden of national reporting, the CSD Secretariat has sought ways to improve the use of existing national information as a basis for future reporting. The Secretariat asked States, in preparing for the 2004-2005 cycle, to build on and update the existing information in light of the adoption of the Johannesburg Plan of Implementation. To make that task easier, the Secretariat undertook to prepare draft thematic profiles on water, sanitation and human settlements for each reporting State as a basis for updates. The CMS Secretariat similarly assists Parties in reporting by helping to prepare parts of the national reports, which the Parties then confirm.

For more information on national reporting under MEAs, see http://www.un.org/esa/sustdev/csd/csd11/background_docs/csd11background3.pdf For information on national reporting to the CSD, see http://www.un.org/esa/sustdev/csd/csd12/csd12_docs.htm (Document E/CN.17/2004/17 (in the six UN languages)).

Standardised Reporting

To assist States in reporting as required by the MEA, many Secretariats have established standardised reporting formats. This also makes it easier to identify potential compliance problems (or successes) for a particular nation, facilitates the use of electronic databases for analysing the data, and assists in trend analysis over time and across countries.

CITES has standardised a number of its reporting documents. These standardised forms include recommended formats for annual and biennial reports, as well as the ICPO-Interpol ECOMESSAGE and ivory and elephant product seizure data collection form and explanatory notes (e.g., see Annex XI of this Manual).

The CBD also has a standardised reporting format. As noted above, this facilitates analytic reviews, and there is a thematic analyser on the CBD’s website <http://www.biodiv.org> that draws upon the standardised reports.

Adopted at the first Meeting of the Parties of the Aarhus Convention, the Format for Aarhus Convention Implementation Report Certification Sheet is available on the Internet at <http://www.unece.org/env/pp/reporting%20intro.htm>



FUNDING FOR REPORTING CAPACITY: MONTREAL PROTOCOL, THE CBD, AND THE UNFCCC

The most recent MEAs explicitly recognise that developing countries require financial and technical assistance in order to build reporting capacity.

The Parties to the Montreal Protocol established a mechanism to provide financial and technical assistance to enable developing countries to comply with the control measures of the treaty. Assistance for strengthening reporting capacity (as well as other capacity building activities) in those countries is provided by the Multilateral Fund. Recognising the importance of accurate and timely data reporting, the Fund finances the establishment and operation of the national focal point for this MEA (known as the National Ozone Unit or NOU), and provides assistance with understanding data reporting requirements and resolving data reporting problems through several mechanisms:

- information support (including guidelines) through a clearinghouse function;
- mutual help from other countries in the region through Regional Networks of ODS Officers and South-South Cooperation [see discussion in Guideline 34(c)]; and
- direct assistance to NOUs from the UNEP Compliance Assistance Programme and from Implementing Agencies through Institutional Strengthening projects.



34(c)

For more information, see

<http://www.unep.fr/ozonaction> or contact ozonaction@unep.fr

The Global Environment Facility (GEF) operates a similar GEF Fund to assist in implementing the Convention on Biological Diversity (CBD) and the UN Framework Convention on Climate Change (UNFCCC).

For example, the Conference of the Parties to the CBD provides regular guidance to the GEF, as the operating entity of the financial mechanism under the Convention, to provide financial assistance to developing country Parties for the preparation of national reports (see for example Decision IV/14, Paragraph 5). For more information on how to access this funding, contact **secretariat@biodiv.org**

Similarly, the GEF provides up to \$50,000 to qualified countries to assist in preparing their National Communications under the UNFCCC. These funds are accessed through the GEF Focal Point for the particular State.



COMMON REPORTING SOFTWARE

Software can ease the national reporting obligations under MEAs, and using a common structure in an electronic format can facilitate analyses of compliance over time and among nations, identifying thematic, functional, and geographic areas of high compliance as well as highlighting potential gaps in compliance. Software can be particularly useful for those MEAs that require permitting, as software can aid in synthesizing the information in numerous permits.

In this regard, CITES is a special case, since its reporting is mainly on issued permits and certificates for international trade in wildlife. Annual and biennial reporting is regulated by the text of the Convention. At least for the biennial reports, it would be possible to harmonise a reporting system for the biodiversity-related MEAs that address legal and administrative measures, information on fees for permits, enforcement issues, sanctions provided for offences, and court cases.

Slovenia — along with approximately 20 other States — has developed a computer program that allows easy preparation of annual reports for CITES specifically.

For more information, contact Mr. Robert Boljesic at Robert.Boljesic@gov.si

At the request of CITES Parties, UNEP-WCMC can assist Parties in producing national reports.

An ongoing initiative is seeking to harmonise reporting for the biodiversity-related agreements — including the CBD, CITES, CMS, Ramsar Convention, World Heritage Convention, and others — under the aegis of the CBD.

For more information contact the CBD Secretariat at secretariat@biodiv.org

See also the case study on the “UNEP/WCMC Project on Harmonisation of Information Management and Reporting for Biodiversity MEAs” following Guideline 34(h).



NATIONAL REPORTING THROUGH A “TRANSPARENT AND CONSULTATIVE PROCESS INVOLVING THE PUBLIC”

In Decision I/8 on “Reporting Requirements”, the First Meeting of the Parties of the Aarhus Convention set forth the procedure for Parties to report on “legislative, regulatory and other measures taken to implement the provisions of the Convention” as well as “practical implementation.” The national reports should be prepared “through a transparent and consultative process involving the public.”

The Decision also included a suggested Format for Aarhus Convention Implementation Report Certification Sheet. In filling out this form, a Party is asked to

Provide brief information on the process by which this report has been prepared, including information on which types of public authorities were consulted or contributed to its preparation, on how the public was consulted and how the outcome of the public consultation was taken into account and on the material which was used as a basis for preparing the report.

For more information, see

<http://www.unece.org/env/pp/documents/mop1/ece.mp.pp.2.add.9.e.pdf>



PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF UKRAINE’S NATIONAL REPORTS FOR MEAs”

In 2004-2005, EcoPravo-Kyiv (a Ukrainian NGO) partnered with the Government of Ukraine and UNEP to undertake a pilot project to develop an approach for institutionalising public involvement in the drafting of national reports for MEAs. The project provided experiences and lessons learned from involving members of the public in different stages of preparing national reports for four MEAs:

- the United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (known as the Aarhus Convention);
- the Convention on Biological Diversity (CBD);
- the UN Framework Convention on Climate Change (UNFCCC); and
- the Convention on the Protection of the Black Sea against Pollution (the Bucharest Convention).

The pilot project was motivated by the importance of national reporting in tracking progress in implementing MEAs, the desire to make the process more open and transparent, and the limited financial and personnel resources available to the Government of Ukraine and other States for preparing national reports. The project has been effective in facilitating implementation of MEAs and environmental laws at the national level, while also promoting broad public involvement and engagement in the process.

Public Involvement in the Development of Ukraine's National Reports for MEAs" (cont'd)

From the beginning, the project provided opportunities for members of the public to participate in the discussion and review of the draft national reports for the target MEAs. This process was facilitated through MEA-related outreach that was conducted by e-mail, telephone, fax, and ordinary mail. Members of the public, including both individuals and representatives of organisations had the opportunity to participate in meetings, workshops, and conferences relating to the specific MEAs. The Ministry of Environment (MOE) and EcoPravo-Kyiv held national roundtable discussions on possible approaches for involving the public in drafting and reviewing national reports to MEAs. The public also received information through publications and other outputs produced over the span of the pilot project. The MOE and EcoPravo-Kyiv also included information on the project (including the public comments) on their respective Web sites.

For each of the national reports for the four MEAs, EcoPravo-Kyiv gathered, reviewed, and synthesised the public comments that it received. It then forwarded these to the MOE for their consideration and incorporation (as appropriate) into the national reports. In practice, the MOE did consider the public comments. In the case of the Aarhus Convention and the CBD, the MOE partially incorporated the comments and approved the recommendations of EcoPravo-Kyiv on the drafting of the national report for the UNFCCC.

Following the conclusion of the project in 2005, EcoPravo-Kyiv developed some specific recommendations on involving the public in preparing national reports for MEAs. These recommendations drew upon the actual experiences and lessons learned from the four separate rounds of public involvement in drafting and reviewing national reports for MEAs under the project. These recommendations were designed to assist Ukraine's Ministry of Environment, Ukraine's MEA focal points, and the public. They may also be useful for MEA Secretariats and other States (especially in the EECCA region) who are interested in considering ways to improve public involvement in the preparation of national reports.

For more information, see http://www.ecopravo.kiev.ua/BEY/index_en.html or contact ecolaw@ecopravo.kiev.ua



REVIEW OF NATIONAL REPORTS UNDER THE CONVENTION ON BIOLOGICAL DIVERSITY (CBD)

Article 26 of the CBD requires Parties to report to the Conference of the Parties (COP) on measures taken to implement the Convention and their effectiveness in achieving the objectives of the Convention.

Decisions II/17, V/19, VI/25, and VII/25, respectively, invited CBD Parties to submit three national reports and six thematic reports. [Some thematic or voluntary reports were also called for in other decisions.] As of January 2006, the CBD Secretariat had received a total of 141 first, 122 second, and 63 third national reports. A number of thematic reports have been received as well. In general, the submission of national reports by the respective deadlines set in relevant COP decisions was very low for various reasons, including limited human, technical, and financial resources.

The information in national and thematic reports provides information on trends, progress, and challenges. Accordingly, various meetings under the Convention — in particular meetings of SBSTTA and COP — regularly review the information contained in these reports. For example, the information contained in second national reports was synthesized for consideration at both COP 6 and COP 7. A synthesis of information contained in third national reports has been prepared for consideration at COP 8. In addition, syntheses of information contained in thematic reports have been prepared for consideration at different meetings of SBSTTA when these thematic areas were under review.

A number of meetings under the Convention reviewed the reporting process and provided recommendations on how to improve the reporting guidelines and process. Recently, the first meeting of the Working Group on Review of Implementation (see the case study following Guideline 15) suggested that measures be taken to facilitate timely reporting, including giving more time to Parties to prepare reports and expediting access to funds. More importantly, it suggested that the fourth and future national reports should be outcome-oriented and focus on the status and trends of biodiversity, implementation of National Biodiversity Strategies and Action Plans (NBSAPs), and progress toward the 2010 target and the goals and objectives of the Strategic Plan. It also suggested promoting harmonisation of reporting under related conventions to increase synergies and reduce reporting burdens.

The Global Environment Facility (GEF) has been requested in a number of COP decisions to provide funds and expedite funding for preparing national reports. The GEF usually provides such funds through biodiversity enabling activities of eligible countries. To expedite funding, the GEF and its implementing agencies recently adopted an umbrella project approach by which eligible countries can apply for and receive funds from the GEF implementing agencies (which apply for a funding package on behalf of eligible countries), instead of presenting applications individually to the GEF, which usually takes more time.

All the national and thematic reports received so far had been posted on the website

Review of National Reports under the Convention on Biological Diversity (CBD) (cont'd)

of the Convention. They can be accessed at <http://www.biodiv.org/reports/default.aspx> In addition, an analytical tool had been developed for the second and third national reports and all the thematic reports, which can be accessed at <http://www.biodiv.org/reports/analyzer.aspx>

For more information, contact secretariat@biodiv.org



A SURVEY OF MONITORING AND REPORTING UNDER GLOBAL MEAs

Reporting Requirements under MARPOL

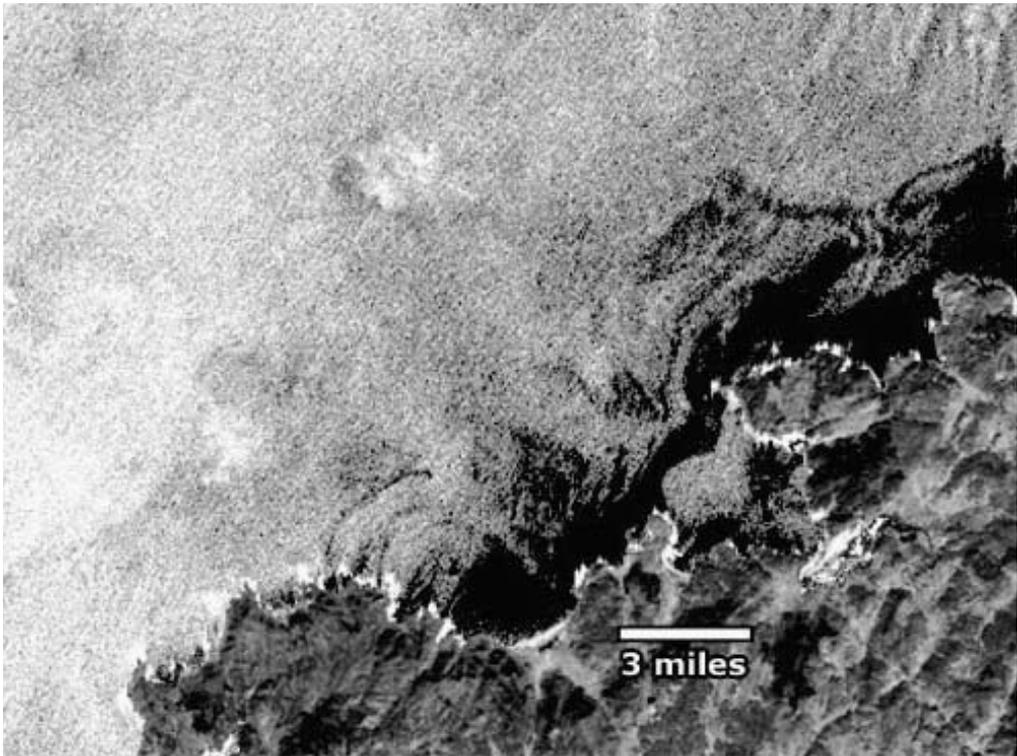
MARPOL (International Convention for the Prevention of Pollution from Ships) is the treaty administered by the International Maritime Organization (IMO) to control various sources of ship-generated pollution. Parties are obligated to report on their enforcement efforts against ships that violate treaty requirements. However, over the years, there has been a poor rate of reporting by Parties.

The Port State control regime has evolved to increase compliance with the IMO Conventions. For example, the Memorandum of Understanding (MOU) on Port State Control between fourteen European member states is designed to increase enforcement efforts of IMO Conventions. This MOU requires members to inspect 25 percent of the ships that enter their ports and then provide the data on a daily basis. The inspection data is then sent to a centralised database. Using telex and computer links, the information is promptly compiled so that it is readily accessible to port authorities, allowing them to know in advance which ships visiting their ports have been inspected, and what the results of the inspections were. This allows them to deploy their inspection resources more efficiently and effectively. The usefulness of this information to port authorities makes them more inclined to conscientiously file their own daily reports. There are several regional MOUs on Port State Control as well as the port state control programme administered by the U.S. Coast Guard for ships entering U.S. ports.

The survey and certification systems are another approach to verification used by MARPOL. For example, certain ships can be permitted to operate only if they are fitted with an oil chamber that cannot be flushed while at sea. This allows verification of non-discharge of pollutants to take place in ports rather than at sea.

Regardless of whether a hard or soft verification mechanism is employed, it is important for the success of international agreements that Parties' implementation of commitments be monitored. In the case of MEAs, this normally depends on Parties' self-monitoring and self-reporting of their activities.

For more information, see http://www.imo.org/Conventions/contents.asp?doc_id=678&topic_id=258 or contact info@imo.org



Oil slick along the Spanish coast after tanker spill, November 2002.

A Survey of Monitoring and Reporting under Global MEAs (cont'd)

The following survey of monitoring requirements for different MEAs provides some examples of various monitoring approaches.

Monitoring under the Montreal Protocol on Substances that Deplete the Ozone Layer

Parties to the Montreal Protocol provide the Secretariat with baseline and annual data on their production, import, and export of controlled ozone depleting substances. When the data for monitoring an agreement is difficult to obtain or elaborate new structures would be needed, proxy data can be used. The data reporting tools are available at

http://ozone.unep.org/Information_for_the_Parties/3A_data_reporting.asp

For more information, contact ozoneinfo@unep.org

Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)

In some MEAs, trade data is used as a form of environmental data, especially where the trade relates to environmental “goods” or commodities. For example, CITES combines wildlife and trade themes with a legally binding instrument for achieving

A Survey of Monitoring and Reporting under Global MEAs (cont'd)

conservation and sustainable use objectives. The Convention was drafted to generally prohibit commercial international trade in species threatened with extinction and to regulate commercial international trade in other species (or parts and derivatives of them), so that they do not become threatened with extinction. The CITES Secretariat organises training seminars for customs officials and other relevant personnel in species management, legislation, monitoring, verification, enforcement, and other aspects of CITES implementation.

CITES regulates international trade in wild animals and plants, and products made from them by requiring Parties to maintain and enforce a detailed permitting system for imports and exports. CITES is assisted by the monitoring and verification functions of UNEP-WCMC, which maintains the CITES trade database under contract with the CITES Secretariat. The global database of CITES trade records allows the import and export records of CITES Parties to be cross-matched. When records do not match, UNEP-WCMC reports the anomaly to the CITES Secretariat. TRAFFIC, a joint wildlife monitoring programme of WWF and IUCN, has also made a useful contribution as an NGO to the tracking of trade in flora and fauna through its extensive network of offices at the national level.

Moreover, specialised databases assist Governments in monitoring and verifying trade in CITES-listed species. For example, the Interpol and World Customs Organization databases are useful resources for CITES, Basel Convention, Montreal Protocol, and Lusaka Agreement, all of which seek to control illegal trade in CITES-listed species and controlled substances.

Under CITES, there are two key national reports. There is an annual report on trade in CITES-listed species, and there is a separate biennial (once every two years) report on measures that the Party has taken to enforce the MEA. While the annual report is "output" oriented (addressing what is actually happening), the biennial report is "input" driven (what are Parties doing to implement their commitments). In practice, there has been greater compliance in submitting the annual reports.

The CITES Secretariat has developed a number of approaches to facilitate national reporting. It developed Guidelines for the Preparation and Submission of CITES Annual Reports <http://www.cites.org/eng/notif/2002/022A.pdf> and a biennial report format <http://www.cites.org/eng/notif/2005/035.pdf> or <http://www.cites.org/eng/notif/2005/E-035.doc>. If a Party so requests, UNEP-WCMC will compile an initial annual report for the State based on copies of permits that are provided to it.

There are also stronger measures to promote compliance with national reporting requirements. Resolution Conf. 11.17 (Rev. CoP13) instructs the Standing Committee to determine which Parties have failed, without having provided adequate justification, to submit annual reports for three consecutive years. This Resolution further recommends that Parties not authorise trade in specimens of CITES-listed species with any Party subject to such a determination by the Standing Committee. This has led to more reporting. Finally, work is continuing on various recommendations made by a Standing Committee working group on reporting.

A Survey of Monitoring and Reporting under Global MEAs (cont'd)

The Secretariat maintains an on-line table noting annual report submissions http://www.cites.org/common/resources/annual_reports.pdf The reports themselves are not available on the CITES website, but it is possible to search the global trade database, using a Trade Information Query Tool available on the website. Information also can be obtained from UNEP-WCMC.

For more information on CITES reporting, contact cites@unep.ch Information on CITES assessment and verification missions follows the case studies at the end of Guideline 14(c).

Convention on the Conservation of Migratory Species (CMS)

National reports are primary means for determining whether the CMS is working. The CMS requires States to prepare national reports. To reduce the potential burdens of reporting, the Secretariat has tried to make them more user friendly. The Secretariat worked with UNEP-WCMC to develop a harmonized reporting format.

The Secretariat (with the assistance of UNEP-WCMC) also assists Parties by preparing parts of the national reports and then requests each Party to provide the missing details. The Secretariat has found that pre-completing the forms helps Parties to report more information and to report more accurately. The information is submitted to the Secretariat in an electronic format. This information then goes into the management plan.

For more information, contact cms@unep.de

UN Framework Convention on Climate Change (UNFCCC)

All Parties to the UNFCCC must prepare a National Communication. This Communication must describe:

- the State's national inventory of Greenhouse Gases (GHG) and related information;
- steps taken or envisaged to implement the UNFCCC; and
- other relevant information, including national circumstances, education, training and public awareness, vulnerability and adaptation assessments, laws, and enforcement issues.

As noted in the case study on "Funding for Reporting Capacity," qualified countries can obtain financial assistance from the Global Environment Facility (GEF) to assist in preparing the National Communication. Moreover, developing countries can use the National Communication to identify potential projects that require financing to implement the UNFCCC.

In preparing the National Communication, Parties often involve a wide range of stakeholders to identify and inventory carbon sources and sinks. Moreover, experience has suggested that when preparing these Communications – as with other national reports – it is important to look at a wide range of potentially relevant sectors, authorities, and actions. *For more information, contact secretariat@unfccc.int*

A Survey of Monitoring and Reporting under Global MEAs (cont'd)

Monitoring and Reporting under the Cartagena Protocol on Biosafety

Article 33 of the Biosafety Protocol requires each Party to monitor the implementation of its obligations under the Protocol and to report to the Conference of the Parties serving as the Meeting of the Parties to the Protocol (COP-MOP) on measures taken to implement the Protocol. At the first COP-MOP, the Parties approved a format for the interim national report on implementation of the Protocol, and agreed on the frequency and timing of such reports (Decision BS-I/9). National reports are to be submitted 12 months prior to the COP-MOP meeting, at which they will be considered.

Reports should be submitted at a frequency of once every four years. It was also agreed that during the initial four-year period, an interim report would be submitted two years after the entry into force of the Protocol, and the intervals and formats of the reports should be kept under review, building on the experience of Parties in preparing their reports. The deadline for submission of interim national reports was 11 September 2005. The analysis of the information contained in the interim national reports were discussed during MOP III (March 2006). The Secretariat has prepared a document analysing the national reports submitted as of 11 October 2005, and this document is available on the Secretariat's website.

For more information, see

<http://www.biodiv.org> or contact secretariat@biodiv.org



MONITORING AND REPORTING UNDER REGIONAL MEAs

The Convention on Long-Range Transboundary Air Pollution (LRTAP)

The Protocols to the LRTAP Convention require Parties to report two types of information covering the two types of substantive obligations (to reduce emissions and to adopt relevant policies, strategies, and measures): (i) information on strategies, policies, and programmes; and (ii) information on emissions.

The information on strategies and policies is gathered by means of a questionnaire every two years. The questionnaire aims to help Parties comply with their reporting requirements and has been recently revised to improve the compliance review by the Implementation Committee. To reduce the reporting burden on Parties, the questionnaire is Internet-based and Parties have the opportunity each year either to update their answers or to confirm the validity of the information submitted for the previous reporting round.

The information on emissions is reported annually. Guidelines for Estimating and Reporting of Emission Data have been adopted under the Convention. The Guidelines provide general guidance on minimum reporting, as well as information on additional reporting, recalculations, uncertainties, and data quality. The reporting tables annexed to the Guidelines aim to harmonize the nomenclatures for reporting under the Convention with those used by the United Nations Framework Convention on Climate Change.

The questionnaire was revised recently so that it more closely reflects the specific obligations under the MEAs. By making the format of the questionnaire more focused on article-by-article reporting, the new questionnaire is designed to better facilitate compliance.

The information thus obtained serves as a basis to assess the effectiveness of the measures to achieve improvement in air quality and to review compliance by Parties with their emission reduction obligations.

For more information, see <http://www.unece.org/env/lrtap/welcome.html>.

The UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention)

In order to facilitate submission of national implementation reports in a standardized format, the Secretariat of the Aarhus Convention developed an on-line reporting format. To complete the form, the national focal point logs on to the UNECE web site. The text of the report becomes public only after the final version has been submitted to the Secretariat.

For more information, see

<http://unece.unog.ch/enhs/pp/> or contact public.participation@unece.org



ASSESSMENT AND VERIFICATION UNDER CITES

At the request of affected Parties, the CITES Secretariat and relevant experts have conducted assessment and verification missions. Mission teams review implementation of the Convention, verify compliance, provide technical assistance, and prepare recommendations. Such missions have taken place, for example, in relation to illegal trade in tiger, ivory, caviar, and Tibetan antelope.

For more information, see <http://www.cites.org> or contact cites@unep.ch

Environmental International Agency



A member of the anti-poaching patrol carried ivory tusks on his head, Zambia.



Additional Resources On Monitoring And Reporting Under Meas

In addition to the studies in the explanatory text above and the discussions of synergies in MEA reporting provided following Guideline 34(h), resources on reporting include:

Tuula Lolari, Promoting Compliance with International Environmental Agreements – A Multidisciplinary Approach (University of Joensuu 2004).

Kal Raustalia, "Reporting and Review Institutions in 10 Multilateral Environmental Agreements," in Durwood Zaelke et al., Making Law Work: Environmental Compliance & Sustainable Development, Vol. 1, p. 227 (Cameron May 2005) (the underlying report, published by UNEP in 2001, is available at <http://www.unep.org/geo/pdfs/MEA%20PM%2070%20Part%20A%20FFF.pdf>).

UNEP/WCMC Web Site on Harmonisation of National Reporting: National Reports, Communications and Relevant Papers <http://www.unep-wcmc.org/conventions/harmonization/reports.htm>

See also the web sites for the respective MEAs and MEA Secretariats (see Annex VII), as well as the various guidance documents referenced following Guideline 34(e), many of which address monitoring and reporting.

Compliance Mechanisms

- [14]** (d) *Non-compliance mechanisms: States can consider the inclusion of non-compliance provisions in a multilateral environmental agreement, with a view to assisting parties having compliance problems and addressing individual cases of non-compliance, taking into account the importance of tailoring compliance provisions and mechanisms to the agreement's specific obligations. The following considerations could be kept in view:*
- (i) *The parties can consider the establishment of a body, such as a compliance committee, to address compliance issues. Members of such a body could be party representatives or party-nominated experts, with appropriate expertise on the relevant subject matter;*
 - (ii) *Non-compliance mechanisms could be used by the contracting parties to provide a vehicle to identify possible situations of non-compliance at an early stage and the causes of non-compliance, and to formulate appropriate responses including, addressing and/or correcting the state of non-compliance without delay. These responses can be adjusted to meet varying requirements of cases of non-compliance, and may include both facilitative and stronger measures as appropriate and consistent with applicable international law;*
 - (iii) *In order to promote, facilitate and secure compliance, non-compliance mechanisms can be non-adversarial and include procedural safeguards for those involved. In addition, non-compliance mechanisms can provide a means to clarify the content, to promote the application of the provisions of the agreement and thus lead significantly to the prevention of disputes;*
 - (iv) *The final determination of non-compliance of a party with respect to an agreement might be made through the conference of the parties of the relevant multilateral environmental agreement or another body under that agreement, if so mandated by the conference of the parties, consistent with the respective multilateral environmental agreement.*

Non-compliance can be a challenging issue to address in any international agreement. States sign agreements voluntarily and are usually free to withdraw at any time in accordance with the specified procedure for withdrawal in the particular agreement (those who do withdraw will have to face the loss of treaty benefits and privileges, which may be considerable). Non-compliance is frequently the result of incapacity rather than intentional disregard for an agreement's rules; and in these circumstances, assistance arguably is more appropriate than penalisation. For these reasons, the approach to non-compliance in MEAs has generally been through the use of non-coercive means to bring Parties into compliance (and to prevent them from getting into non-compliance in the first place).

Compliance mechanisms created by, or pursuant to, the provisions of an MEA use a variety of approaches to address non-compliance. Parties typically are encouraged to self-report non-compliance, particularly when lack of capacity may be the cause and assistance may

be in order. A compliance body may be created to review and assess instances of non-compliance and to provide or facilitate capacity assistance to Parties having difficulties.

There are instances, however, where non-compliance may be the result of negligence or insufficient commitment by a Party to its obligations. Compliance mechanisms may rely upon publicising information about non-complying Parties as a means to induce compliance (typically referred to as “naming and shaming”). Moreover, compliance mechanisms may call for cases of non-compliance to be brought to the attention of the Conference of the Parties (COP) for potential further action. The COP may be empowered to consider imposing sanctions for severe cases of deliberate non-compliance.

In proposing, developing, and implementing compliance mechanisms, both developing and developed countries can play significant roles. For example, it was on the suggestion of Trinidad and Tobago that the Montreal Protocol established an Implementation Committee.

In reviewing a potential case of non-compliance, compliance mechanisms typically consider the totality of circumstances: the State, history, nature of violation, etc. This broader view is important in determining an appropriate response. Often violations occur due to lack of awareness, and in these instances a facilitative response to bring the Party back into compliance would be the most appropriate. At the same time, there is the potential of free riders, for which stronger responses are necessary. Thus, compliance mechanisms need to distinguish between violations arising from a lack of will to comply and those arising from a lack of capacity to comply.

In addition to the more formal compliance mechanisms (which make up most of the examples listed here), there are some less formal approaches. These include, for example, the Montreux Record under the Ramsar Convention by which Parties can voluntarily list Ramsar sites that are facing particular challenges. This approach can help Parties generate public awareness, mobilize financial resources (if necessary), and build political consensus to undertake the necessary measures.



THE MONTREUX RECORD: A REGISTER OF ENDANGERED AND THREATENED RAMSAR SITES

The Montreux Record is a voluntary mechanism to highlight specific wetland sites that have been designated as wetlands of international importance under the Ramsar Convention, but which are facing immediate challenges. In particular, the Montreux Record is a register of listed Ramsar sites where changes in ecological character have occurred, are occurring, or are likely to occur as a result of technological developments, pollution, or other human interference.

The Montreux Record was established by Recommendation 4.8 at the 1990 COP. Subsequently, in 1993, the COP determined through Resolution 5.4 that the Montreux Record should be employed to identify priority sites for positive national and international conservation attention. As expressed in Resolution VIII.8 (2002), the

The Montreux Record: A Register of Endangered and Threatened Ramsar Sites (cont'd)

Parties believe that "the voluntary inclusion of a particular site on the Montreux Record is a useful tool available to Contracting Parties in circumstances where:

- a) demonstrating national commitment to resolve the adverse changes would assist in their resolution;
- b) highlighting particularly serious cases would be beneficial at national and/or international level;
- c) positive national and international conservation attention would benefit the site; and/or
- d) inclusion on the Record would provide guidance in the allocation of resources available under financial mechanisms."

Resolution VI.1 (1996) established more precise procedures for the utilisation of the Montreux Record mechanism, with guidelines on the steps to be taken for including Ramsar sites on the Record and removing sites from it. Pursuant to these guidelines, sites may be added to and removed from the Record only with the approval of the Contracting Parties in which they lie. As of January 2006, 57 sites were listed in the Montreux Record.

At the request of the Contracting Party concerned, the Secretariat may send a technical mission, known as a Ramsar Advisory Mission, to analyse the situation at one or more particular Montreux Record sites, provide advice on the measures to be taken, and assess the desirability of removing a site from the Montreux Record when measures have been implemented



Everglades.

successfully. Additionally, the Secretariat may provide funding for restoration projects within available resources in its funding mechanisms.

For more information about the Montreux Record guidelines and the sites on the Record, see http://www.ramsar.org/key_montreux_record.htm



COMPLIANCE MECHANISMS IN VARIOUS MEAs

Montreal Protocol on Substances that Deplete the Ozone Layer

Pursuant to Article 8 of the Montreal Protocol, the first Meeting of the Parties (MOP) in 1989 appointed an Ad-Hoc Working Group of Legal Experts to develop procedures and institutional mechanisms to determine and address issues of non-compliance. A set of interim procedures and institutional mechanisms was adopted a year later, and the 4th MOP (in 1992) formally adopted a final non-compliance procedure (with an Implementation Committee) as well as an “Indicative List of Measures that Might be Taken by a Meeting of the Parties in Respect of Non-compliance with the Protocol.” To summarise briefly, the procedure worked as follows:

- If one of the Parties has “reservations regarding another Party’s implementation of its obligations under the Protocol, those concerns may be addressed in writing to the Secretariat.” The reply from the State at stake and the original submission shall be transmitted to an Implementation Committee. The Committee consists of members from 10 Parties.
- This Implementation Committee may also be informed by a Party that “despite having made its best, bona fide efforts, it is unable to comply fully with the obligations under the Protocol”. It can also, in some specific cases, be informed by the Secretariat of the Protocol itself that a Party may be in non-compliance with the Protocol.
- The functions of the Implementation Committee consist of gathering and requesting information in those cases where it is involved, “with a view to securing an amicable solution of the matter on the basis of respect for the provisions of the Protocol.” The Implementation Committee submits its report to the MOP, which reviews the information and recommendations to decide the best way “to bring about full compliance with the Protocol.” The Implementation Committee may assist the MOP in that task, but the MOP — not the Committee — is charged with making the decision. As a practical matter, the MOP thus far has accepted all of the recommendations of the Implementation Committee.

By 1994, the Montreal Protocol reporting system had revealed that some Parties experienced large-scale compliance problems. In particular, the Newly Independent States that were formerly part of the Soviet Union were experiencing profound economic, political, and social transitions that affected their ability to comply. The findings, which were reported initially to the Secretariat and key members of the Implementation Committee and technical advisory panels, were confirmed by a joint statement from the Parties and a subsequent letter from the Russian Prime Minister, stating that Russia did not expect to be able to comply with deadlines for phasing out Ozone Depleting Substances (ODS).

The Secretariat and the Implementation Committee decided to respond with a “plan and review” approach, rather than sanctions, which are provided for under the

Compliance Mechanisms in Various MEAs (cont'd)

Protocol's non-compliance system. The Parties were asked by the Implementation Committee to present detailed plans for ensuring compliance with their phase-out obligations as soon as possible. Once approved, these were recommended to the GEF for financial support, conditional on the Parties adhering to the plans. The blend of encouragement and assistance proved successful, and the Parties made significant progress, with several coming into compliance within a few years.

The Protocol does not include a specific provision for reviewing the effectiveness of the compliance mechanism. However, after the Protocol and the Implementation Committee had been functioning for a number of years, the non-compliance procedure of the protocol went through a formal review by the Parties and was revised in 1998.

At the Ninth Meeting of the Parties in 1997, it was considered that a regular review of the non-compliance procedure was necessary, and an Ad-Hoc Working Group of Legal and Technical Experts on Non-Compliance was appointed to undertake a review. One year later, at the 1998 MOP, the Working Group presented a report concluding that although "in general the non-compliance procedure [had] functioned satisfactorily (...) further clarification was desirable and that some additional practices should be developed to streamline the procedure." Accordingly, minor changes to the non-compliance procedures were adopted that year, and the Implementation Committee was required to not only gather information but also to "identify the (...) possible causes leading to non-compliance." The non-compliance procedures were reviewed again in 2002, but no changes were introduced. The 1998 non-compliance procedure is still in effect.

The text of the non-compliance procedure can be found in Annex II of the report of the Tenth MOP

http://www.unep.org/ozone/Meeting_Documents/mop/10mop/10mop-9.e.pdf

For more information, contact the Ozone Secretariat at ozoneinfo@unep.org

Cartagena Protocol on Biosafety

The Compliance Committee for the Cartagena Protocol was established by Decision I/7, pursuant to Article 34 of the Protocol. The Committee is mandated to, inter alia:

- identify specific circumstances and possible causes of individual cases of non-compliance referred to it;
- consider information submitted to it regarding matters relating to compliance and cases of non-compliance;
- provide advice and/or assistance, as appropriate, to a Party in non-compliance with a view to assisting it to comply with its obligations under the Protocol;
- review general issues of compliance by Parties with their obligations; and
- take measures, as appropriate, or make recommendations, to the Conference of the Parties serving as the meeting of the Parties to the Protocol (COP-MOP).

Compliance Mechanisms in Various MEAs (cont'd)

The Committee may receive, through the Secretariat, submissions relating to compliance from any Party with respect to itself or any other Party, which is affected or likely to be affected, with respect to another Party. On receipt of a submission, the Secretariat shall make the submission available to the Party concerned within 15 days. Once it has received a response, the Secretariat must transmit the submission, the response, and information to the Committee. Parties that have received submissions regarding their compliance with the provisions of the Protocol are required to respond within a specified timeframe.

Parties that make a submission and those that are the subject of a submission are entitled to participate in the deliberations of the Committee. However, these Parties cannot participate in the elaboration or adoption of a recommendation of the Committee.

The Compliance Committee may take a number of measures with a view to promoting compliance and addressing cases of non-compliance. These include:

- providing advice or assistance to the Party concerned;
- making recommendations to the COP-MOP regarding the provision of financial and technical assistance, technology transfer, training and other capacity building measures;
- requesting or assisting the Party concerned to develop a compliance action plan regarding the achievement of compliance with the Protocol within a timeframe to be agreed upon between the Committee and the Party; and
- inviting the Party concerned to provide progress reports to the Committee on the efforts it is making to comply with the obligations under the Protocol.

Moreover, the COP-MOP may, upon the recommendations of the Committee:

- provide financial and technical assistance;
- issue a caution to the concerned Party;
- request the Executive Secretary to publish cases of non-compliance in the Biosafety Clearing-House; and
- in cases of repeated non-compliance, take such measures as may be decided by COP-MOP at its third meeting.

The Compliance Committee consists of 15 members nominated by Parties and elected by the COP-MOP, with three members from each of the five regional groups of the United Nations. They are elected for a period of four years, this being a full term. At the first COP-MOP, 5 members, one from each region, were elected for half a term, and 10 members for a full term. Each time thereafter, the COP-MOP shall elect for a full term, new members to replace those whose term has expired. This electoral process is calculated to guarantee continuity in the membership of the Committee. Members cannot serve for more than two consecutive terms.

The Committee shall consider relevant information from (a) the Party concerned; and (b) the Party that has made a submission with respect to another Party. The Committee

Compliance Mechanisms in Various MEAs (cont'd)

may also seek or receive information and consider information from other sources, such as the Biosafety Clearing-House, the Conference of the Parties to the Convention, the COP-MOP, and subsidiary bodies of the CBD and the Protocol. There is, thus, a clear distinction between submissions and information. Submissions can only be made by a Party with respect to itself or with respect to another Party where it is affected or is likely to be affected by the non-compliance of the other Party. On the other hand, information can be sought or received from a variety of sources.

For more information,

see <http://www.biodiv.org> or contact secretariat@biodiv.org.

Compliance Review and the Kyoto Protocol to the Climate Change Convention

Article 18 of the Kyoto Protocol establishes a review process that “shall provide a thorough and comprehensive technical assessment of all aspects of the implementation by a Party of the Protocol.” Expert review teams prepare reports that assess the Parties’ implementation and identify potential compliance problems. Beyond those requirements, the actual extent of the review will be established by guidelines that the COP/MOP adopts. For more information, see the case study on “Development of a Compliance Mechanism for the Kyoto Protocol” following Guideline 16.



16

Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)

A compliance mechanism has evolved under CITES during its more than 30 years of operation, which relates to obligations under the Convention and takes into account relevant resolutions. The compliance mechanism has paid particular attention to the: designation of at least one Management Authority and one Scientific Authority (Art. IX); permitting of trade in CITES-listed specimens only to the extent consistent with the procedures laid down in the Convention (Arts. III, IV, V, VI, VII, and XV); taking of appropriate domestic measures to enforce the provisions of the Convention and to prohibit trade in violation thereof (Art. VIII, para. 1); maintenance of records of trade and submission of periodic reports (Art. VIII, paras. 7 and 8); and provision of responses to communications of the Secretariat or the Standing Committee related to information that a species included in Appendix I or II is being adversely affected by trade in specimens of that species or that the provisions of the Convention are not being effectively implemented (Article XIII). As the supreme body of the Convention, the Conference of the Parties (COP) directs and oversees the handling of compliance matters, particularly through the identification of key obligations and procedures. As the executive body of the Convention, the Standing Committee, acting in accordance with instructions from and authority delegated by the COP, examines general and specific compliance matters.

Experience with the compliance mechanism has highlighted that certain, special aspects of CITES seem to have contributed to the effectiveness of its compliance mechanism.

Compliance Mechanisms in Various MEAs (cont'd)

These include:

- precise obligations to which Parties have committed to under the Convention;
- specificity of the Convention;
- a pro-active Secretariat with a strong and clear role afforded by the Convention, including the ability to trigger the compliance mechanism;
- the possibility of decision-making by a qualified majority of the Parties (rather than unanimity or consensus);
- the possibility for non-Parties to participate in trade under certain conditions;
- use of an existing subsidiary body, the Standing Committee, as a compliance committee;
- the Convention's nature as an environmental and trade treaty; and
- the straightforward approach generally taken by Parties to address issues that arise within the Convention.

For more information, see <http://www.cites.org> or contact cites@unep.ch

Basel Convention Compliance Committee

In 2002, the 6th COP of the Basel Convention established a Compliance Committee that is designed to be "non-confrontational, transparent, cost-effective and preventive in nature, simple, flexible, non-binding and oriented in the direction of helping parties to implement the provisions of the Basel Convention." The Committee includes 15 members (3 from each UN region) with relevant scientific, technical, socio-economic, and/or legal expertise; and they are required to "serve objectively and in the best interest of the Convention."

The Committee may consider submissions from a Party (regarding non-compliance by itself or another Party) or from the Secretariat. The Committee may dismiss submissions that it considers de minimis or "manifestly ill-founded." The Committee may pursue a facilitating procedure, by which it could provide advice, non-binding recommendations, and information. If such facilitation is insufficient, the Committee may recommend that the COP pursue additional measures, including: (1) additional technical and financial support; or (2) a cautionary statement and providing advice. At the request of the COP, the Committee also can review general issues of compliance and implementation under the Convention.

In carrying out its functions, the Committee may, inter alia:



Seized CFCs, Delhi, 2004

Ezra Clark/EIA

Compliance Mechanisms in Various MEAs (cont'd)

- Request further information from all Parties on issues of compliance and implementation;
- Consult with other bodies of the Convention;
- Request further information from any source and draw upon outside expertise, either with the consent of the Party concerned or as directed by the COP;
- Undertake, with the agreement of a Party(ies), information gathering in its or their territories;
- Consult with the Secretariat and request information of the Secretariat, where appropriate; and
- Review the national reports of Parties.

The Committee strives to make decisions “on all matters of substance by consensus.” As a last resort, the Committee may make decisions by a “two-third majority of the members present and voting or by eight members, whichever is the greater.” In which case, the final report and recommendations are required to reflect the views of all the Committee members.

For more information, see

<http://www.basel.int/legalmatters/compcommittee/index.html> or contact sbc@unep.ch

The Citizen Submission Process of the North American Agreement on Environmental Cooperation

In 1993, Canada, Mexico, and the United States adopted the North American Agreement on Environmental Cooperation (NAAEC) as a “side agreement” to the North American Free Trade Agreement (NAFTA). This Agreement established the North American Commission for Environmental Cooperation (NACEC) to facilitate environmental cooperation in the region. Articles 14 and 15 of the NAAEC established a citizen submission process for environmental enforcement matters. The NACEC Secretariat administers this process. Through this mechanism, the Secretariat may consider a submission on enforcement matters asserting that a NAAEC Party is failing to effectively enforce its own (national) environmental law. Any person or NGO residing inside the territory of one of the three Parties may file a submission.

The submission must meet specific criteria, which are set forth in Articles 14 and 15 and elaborated in “Guidelines for Submissions on Enforcement Matters under Articles 14 and 15 of the North American Agreement on Environmental Cooperation”, which were adopted in 1995 and subsequently amended. For example, the submission must include sufficient supporting documentary evidence, it must be submitted in good faith, and it must clearly allege a failure to enforce existing environmental law.

The NACEC Secretariat reviews the submission to determine if it meets the various requirements. If it does meet the requirements, the Secretariat requests a response from the Party alleged to have failed to enforce its law. In making this decision, the Secretariat considers — among other issues — whether the submission alleges harm to the person or organization making the submission, or whether the submission raises matters whose further study would advance the goals of the NAAEC. Based on the

Compliance Mechanisms in Various MEAs (cont'd)

submission and the Party's response, the Secretariat may recommend the development of a factual record on the matter. The ultimate decision to prepare a factual record requires a 2/3 vote of the 3 NAAEC Parties (through the Council). If mandated, the Secretariat prepares a draft factual record detailing its findings. Any Party has 45 days to provide comments on the accuracy of the draft factual record, and the Secretariat is responsible for incorporating these comments. The Council (i.e., the Parties) decides by a 2/3 vote whether to make the final factual record publicly available.

For more information, see <http://www.cec.org/citizen/index.cfm?varlan=english> (which includes various documents in French, Spanish, and English relating to the citizen submission process, including a docket detailing the current status of filed submissions) or contact GGarver@ccemtl.org



COMPLIANCE MECHANISMS IN REGIONAL MEAs (UNECE)

In the UNECE region, three MEAs have compliance regimes: the Aarhus Convention, the Espoo Convention, and the LRTAP Convention. The regimes are structured differently, because non-compliance has different consequences in the different MEAs. Generally, the regimes are non-confrontational and non-judgmental. For the Aarhus and Espoo Conventions, there are opportunities for public participation. The Espoo and LRTAP compliance mechanisms are described following Guideline 16.

Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention)

Article 15 of the Aarhus Convention provided that the Meeting of the Parties (MOP) must establish a compliance mechanism that is "non-confrontational, non-judicial and consultative" and that the public must have access to this mechanism. In 2002, the first Meeting of the Parties established a Compliance Committee as the main body for the review of compliance, set out the structure and functions of the Committee, and elaborated the procedures for reviewing compliance with the Convention.

The Committee consists of eight members serving in their personal capacities and elected with due regard to geographical distribution of membership and diversity of experience. NGOs have the right to nominate candidates for the Committee (and the candidates can be from NGOs), which are elected by the MOP. Of the eight Committee members elected at the first MOP in 2002, two were nominated by NGOs.

The Committee's review of compliance by individual Parties can be triggered by a Party's submissions with regard to compliance by another Party, a Party's submission with regard to its own compliance, a referral by the Secretariat, or a communication from a member of the public. In addition, the Committee may examine compliance issues on its own initiative

Compliance Mechanisms in Regional MEAs (UNECE) (cont'd)

and make recommendations; prepare reports on compliance with or implementation of the provisions of the Convention at the request of the MOP; and monitor, assess, and facilitate the implementation of and compliance with the reporting requirements under the Convention.

The primary role of the Committee is to report and make recommendations to the MOP for it to decide upon and take appropriate action. In certain circumstances, the Committee itself may take certain actions on an interim basis, in consultation or in agreement with the Party concerned. The Committee can consider information from many sources, and the information is considered public unless a Party requests that their information be kept confidential. The identity and personal details of members of the public who submit information can — upon request — be kept confidential.

One important feature of the Aarhus Convention's compliance mechanism is that it provides for members of the public to make communications to the Committee on cases of alleged non-compliance with the Convention, which the Committee is then required to address. This innovation reflects the broader emphasis of the Aarhus Convention on guaranteeing the rights of the public, not only the rights of Parties vis-à-vis one another; and it is also consistent with human rights mechanisms. [In human rights law, this is a well-established approach to ensure that States respect the basic human rights set out in various treaties.]

Between October 2002 and October 2005, the Committee received 15 communications from the public and one submission from a Party with regard to the compliance by another Party. Five communications were concluded and approved by the Meeting of the Parties. At their second meeting in May 2005, the Parties reviewed the work undertaken by the Committee in the first three years of its operation. On the basis of the Committee's proposals, the MOP adopted several decisions to facilitate compliance by several individual Parties.

For more information, see <http://www.unece.org/env/pp/compliance.htm>



Additional Resources On Compliance Mechanisms

- U. Beyerlin et al. (eds.), *Ensuring Compliance with Multilateral Environmental Agreements: A Dialogue between Practitioners and Academia* (Martinus Nijhoff 2006).
- European Commission, *Compliance Mechanisms in Multilateral Environmental Agreements (MEAs)* (2005), available at <http://register.consilium.eu.int/pdf/en/05/st07/st07606.en05.pdf> (Commission Staff Working Paper).
- Maas Goot & Rene Léfeber, *Compliance Building under the International Treaty on Plant Genetic Resources for Food and Agriculture*, Background Study Paper No. 20 (FAO 2004), available at <http://www.fao.org/ag/cgrfa/ico1.htm> (in Arabic, Chinese, English, French, Russian, and Spanish).
- Veit Koester, "Review of Compliance under the Aarhus Convention: A Rather Unique Compliance Mechanism," *Journal for European Environmental and Planning Law (JEEPL)* 1/2005 pp. 31-44.
- Tuula Lolari, *Promoting Compliance with International Environmental Agreements – A Multidisciplinary Approach* (University of Joensuu 2004).
- Rosalind Reeve, *Policing International Trade in Endangered Species: The CITES Treaty and Compliance* (RIIA/ Earthscan 2002) (tracing the evolution of the CITES compliance system and providing detailed case studies of countries subject to trade sanctions for failing to comply with the treaty).
- UNEP, *Comparative Analysis of Compliance Mechanisms under Selected Multilateral Environmental Agreements* (Dec. 2005), available at <http://www.unep.org/DEC/docs/Compliance.Mechanisms.comparative.analysis.doc>
- Xueman Wang & Glenn Wiser, "The Implementation and Compliance Regimes under the Climate Change Convention and its Kyoto Protocol," 11(2) *RECIEL* 181-198 (2002).

CHECKLIST FOR COMPLIANCE MECHANISM

In deciding whether to develop a compliance mechanism and what form it should take, Parties and the MEA Secretariat can:

- Consider the experiences with compliance mechanisms for other MEAs, particularly those MEAs that are similar in aim or approach.
- Use a questionnaire for Parties and/or Signatories to complete, in order to identify which actions (or inaction) would trigger the mechanism and the nature of the mechanism.
- Wait until there is some experience implementing the MEA to determine the nature of implementation and compliance problems — and, at that point, craft a compliance mechanism that responds to those issues.

If a decision is made to develop a compliance mechanism, Parties may consider:

- What is the purpose of the compliance mechanism? What problems does it seek to redress?
 - Some MEAs have a two-prong approach to non-compliance, depending on whether the non-compliance was due to lack of capacity (addressed through assistance) or willfulness (addressed through stricter measures).
- Which actions trigger the compliance mechanism?
- Who can file complaints with the mechanism?
 - The Party in non-compliance can, as can other Parties.
 - Often the Secretariat can refer a specific issue of non-compliance by a Party. The Secretariat may also be able to request the compliance mechanism to investigate broader trends and the issue of non-compliance.
 - Increasingly, MEAs allow members of the public to submit complaints to the compliance mechanism. This is sometimes controversial, but evidence and Rio Principle 10 suggest that public access to justice improves compliance, good governance, and environmental protection.
- Should there be a requirement of exhaustion of remedies at the domestic level? If so, are there exceptions for futility, emergency, or other grounds?
- What is the composition of the compliance mechanism?
 - There is usually a requirement for geographic balance.
 - Frequently, there are requirements that members have the necessary legal, policy, scientific, or technical expertise.
 - Members of a compliance mechanism usually are required to be independent, impartial, and objective, and to serve in their independent capacity (not as a representative of a government or other institution).
 - Members are usually nominated by the Parties, and occasionally by NGOs; Parties select the members.
- What are the authorities of the compliance mechanism?
 - In most instances, the compliance mechanism investigates, issues its report, and suggests measures; but the COP or MOP usually has the sole authority to impose sanctions. A few compliance mechanisms have authority to impose sanctions without the COP or MOP.

CHECKLIST FOR COMPLIANCE MECHANISM (cont'd)

Authorities include:

- Offering advice on how to come into compliance, including assisting the Party in developing a compliance strategy (facilitative). Capacity building and technical assistance often is a priority for developing countries.
- Stronger measures, such as a declaration of non-compliance, financial penalties, and loss of privileges.

Review of the Effectiveness of an MEA

[15] *The conference of the parties of a multilateral environmental agreement could regularly review the overall effectiveness of the agreement in meeting its objectives, and consider how the effectiveness of a multilateral environmental agreement might be improved.*

Periodic review of an MEA's effectiveness can help to ensure that the MEA is meeting or moving toward its desired goals. Such reviews may be mandated by provisions in the MEA. Alternatively, the Parties to an MEA may initiate such a review through mutual agreement, for example by decisions at the Conference of the Parties (COP) (e.g., see following case study on CBD). The review may be broad, reviewing all aspects of the MEA; or it could focus on specific aspects that Parties identify as entailing particular difficulties in compliance and enforcement.

Indicators provide one framework for assessing the effectiveness of an MEA. Performance indicators, on the one hand, can help to identify areas where Parties are complying with their obligations and areas where compliance is problematic. These indicators seek to answer questions related to: "Are countries doing what they said they would?" These indicators tend to assess governmental actions (development of laws, institutions, etc.) and sometimes private sector actions. Output indicators, on the other hand, seek to address whether the measures are actually effective. These indicators seek to answer questions related to: "Is the MEA having the desired effects?" These indicators often assess environmental conditions (as well as social and economic, depending on the MEA).

Usually, both types of indicators are necessary. Even if the performance indicators show that States are doing everything they said they would, this might not be enough and environmental conditions continue to degrade. In this instance, the MEA may need to be amended (for example, through a protocol) to take more stringent measures to protect the environment. Alternatively, States may be taking alternative measures to address the environmental problem. In which case, the performance indicators might indicate poor compliance, but the output indicators would suggest that the environmental conditions are doing well. In this situation, the MEA may need amendment to reflect alternative ways of complying so that States are not deemed to be in non-compliance when the goals are being met.

Assessments of the state of the environment can identify the extent to which MEAs and other measures are meeting their goals, whether it is to protect biodiversity, halt desertification, or restore the ozone layer. Examples of such assessments include:

- Global Environment Outlook (GEO), as well as the other regional and national environmental outlook reports (by UNEP and numerous collaborating centres) <http://www.unep.org/geo/>
- Global Biodiversity Outlook (GBO) (under the CBD) <http://www.biodiv.org/gbo/gbo-pdf.asp>
- State of the World (by the Worldwatch Institute) <http://www.worldwatch.org/pubs/>

- World Resources Report http://projects.wri.org/project_description.cfm?ProjectID=86 and EarthTrends <http://earthtrends.wri.org/> (by the World Resources Institute)
- National State of the Environment (SOE) reports (see, e.g., <http://ncseonline.org/cms.cfm?id=518> and <http://countries.eea.eu.int/SERIS>)

The GEO process is now in its fourth iteration (GEO-4). This iteration — which is directed at policymakers and has a theme of “environment for development” has adopted a participatory and consultative approach to the assessment. In addition, the GEO process has launched a number of thematic reports, such as GEO-Cities http://www.grid.unep.ch/activities/assessment/geo/geo_cities.php, GEO for Deserts, and GEO Health (with the Pan-American Health Organization (PAHO)).

A number of MEAs have undertaken reviews of their compliance mechanisms. These include the Montreal Protocol [see case study on “Compliance Mechanisms in Various MEAs: Montreal Protocol on Substances that Deplete the Ozone Layer” following Guideline 14(d)].



[14(d)]



ASSESSMENT OF CONTROL MEASURES UNDER THE MONTREAL PROTOCOL

The Montreal Protocol requires a regular review of effectiveness of its “control measures,” or compliance mechanisms. Article 6 of the Protocol provides that:

Beginning in 1990, and at least every four years thereafter, the Parties shall assess the control measures provided for in Article 2 and Articles 2A to 2I, on the basis of available scientific, environmental, technical and economic information. At least one year before each assessment, the Parties shall convene appropriate panels of experts qualified in the fields mentioned and determine the composition and terms of reference of any such panels. Within one year of being convened, the panels will report their conclusions, through the Secretariat, to the Parties.

One of these panels — the UNEP Technology and Economic Assessment Panel (TEAP) — is a standing subsidiary body established by the Meeting of the Parties to the Montreal Protocol. It is comprised of hundreds of government, industry, and NGO experts from around the world and is coordinated by the UNEP Ozone Secretariat. The TEAP is responsible for conducting this assessment and reporting to the Parties about: (a) the state of the art production and use of technology, options to phase out the use of ozone-depleting substances, and techniques for recycling, reuse, and destruction; and (b) economic effects of ozone layer modification and economic aspects of technology.

For more information on the assessment panels, see <http://www.unep.org/ozone>



AD HOC OPEN-ENDED WORKING GROUP ON REVIEW OF IMPLEMENTATION OF THE CONVENTION ON BIOLOGICAL DIVERSITY (CBD)

Over the years, the Conference of the Parties (COP) of the CBD has adopted a number of decisions regarding the review of the operations of the Convention. For example, at COP 6, the Parties decided that better methods should be developed to objectively evaluate progress in the implementation of the Convention and its Strategic Plan (Decision VI/26).

At COP 7, the Parties established the Ad Hoc Open-ended Working Group on Review of Implementation (WGRI) of the Convention, through Decision VII/30. The Working Group is open to all Parties, inter-governmental organisations, and other observers. Its mandates include: (1) to consider progress in the implementation of the Convention, the Strategic Plan, and achievements leading up to the 2010 target of reducing the rate of biodiversity loss; (2) to review the impacts and effectiveness of existing processes under the Convention, such as meetings of the COP, SBSTTA, national focal points, and the Secretariat, as part of the overall process of improving the operations of the Convention and implementation of its Strategic Plan; and (3) to consider means of identifying and overcoming obstacles to the effective implementation of the Convention.

The WGRI met in September 2005 and developed a number of recommendations to improve the Convention processes and enhance effective implementation of the Convention and the Strategic Plan. The WGRI also recommended that it hold a further meeting in the inter-sessional period between COP8 and 9 to continue reviewing progress toward the 2010 biodiversity target.

For more information, see <http://www.biodiv.org> or contact secretariat@biodiv.org



REVIEWING IMPLEMENTATION OF THE LUSAKA AGREEMENT

The Lusaka Agreement on Co-operative Enforcement Operations Directed at Illegal Trade in Wild Fauna and Flora (referred to as the Lusaka Agreement) was adopted in 1994. The Lusaka Agreement seeks to support enforcement of laws governing illegal trade in wild fauna and flora in Africa. With the 10-year anniversary of its adoption approaching, the 6th Governing Council (July 2003) requested the Executive Director of UNEP in cooperation with the Director of the Lusaka Agreement Task Force (LATF) to initiate an independent review of the work of the Task Force. The Governing Council indicated that this review should examine the impacts of implementing the Agreement, since its adoption in September 1994, and make recommendations for the enhancement of the Task Force and the institutions established under the Agreement. As such, the review would assist in the long-term planning of the work of the Task Force.

The evaluation was conducted under the auspices of UNEP between January and November 2004. An independent consultant was commissioned to lead the consultations, which resulted in the preparation of a draft review report. This draft report was reviewed and commented on at a regional experts' workshop, held in Nairobi in December 2004. Subsequently, the evaluation report was adopted during the meeting of the 7th Governing Council, held in January 2005.

The independent evaluation entailed a comprehensive review and assessment of the existing arrangements with a view toward providing guidance on the best way forward in implementing the Agreement. The review process made a number of recommendations to enhance the implementation of the Agreement and to strengthen the roles of its institutions (in particular the National Bureaus, Governing Council, and Task Force). These recommendations include, inter alia:

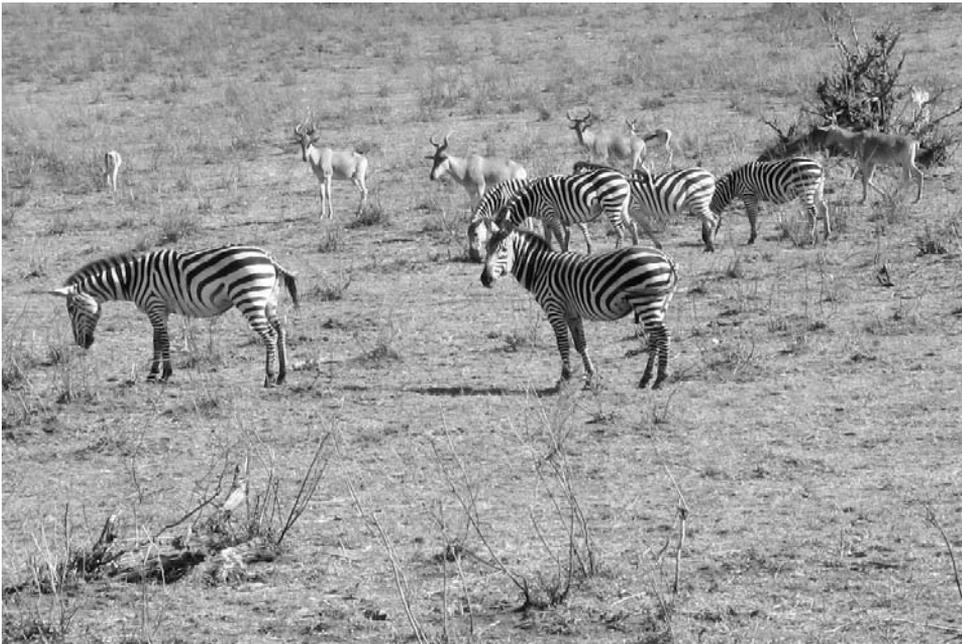
- Developing and monitoring implementation of a Strategic Plan as well as a comprehensive financial strategy for the Task Force to cover short-, medium and long-term strategies;
- Increasing networking of the Task Force and National Bureaus with relevant national stakeholders and other regional and international organisations;
- Promoting international cooperation by developing closer links with partners at the sub-regional, regional, and international levels;
- Expanding the mandate of the Bureau of the Governing Council as a policy and decision making organ;
- Enhancing the profile of the Lusaka Agreement at international fora; and
- Development of contingency and strategic plans for eventual expansion of the Agreement.

Following completion of the review and the adoption of the evaluation report, the review's recommendations have been used in a variety of ways. A 10-year Strategic Plan (2005-2015) has been provisionally adopted by the Bureau of the Governing Council and is currently being implemented. Comprehensive work programmes

Reviewing Implementation of the Lusaka Agreement (cont'd)

and annual operational plans have taken into consideration the review report recommendations. LATF institutions have started to be strengthened, with the Bureau of the Governing Council now serving as the implementation committee of the Governing Council. Finally, LATF has seen increased and closer collaboration with various partners. This is illustrated, for example, by the Memorandum of Understanding (MoU) that was concluded with L'Organisation pour la Conservation de la Faune Sauvage en Afrique (OCFSA) and another MoU that is being finalised with Interpol.

For more information, see <http://www.lusakaagreement.org/> or contact Ms. Emily Kisamo skisamo@lusakaagreement.org



Ken Markowitz (2006)

Zebras in Kenya's Masai Mara National Reserve.



Additional Resources On Reviewing The Effectiveness Of Meas

Helmut Breitmeier et al., *Analyzing International Environmental Regimes: From Case Study to Database* (2006).

Develop a Compliance Mechanism after an MEA Comes into Effect

[16] *Compliance mechanisms or procedures could be introduced or enhanced after a multilateral environmental agreement has come into effect, provided such mechanisms or procedures have been authorised by the multilateral environmental agreement, subsequent amendment, or conference of the parties decision, as appropriate, and consistent with applicable international law.*

In addition to setting forth detailed provisions for a compliance mechanism within the terms of an MEA (see discussion of Guideline 14(d), above), Parties to an MEA also can develop a compliance mechanism after the MEA enters into force. There are two general ways that this can happen. First, an MEA can direct and empower the COP to create a compliance mechanism, either through a general mandate or through specific parameters for the mechanism. Second, if the MEA is silent as to means for ensuring compliance, the COP can take subsequent action to develop a compliance mechanism.

At the regional level, the LRTAP and Espoo Conventions in the UNECE region provide two examples; while at the international level, two examples of this are provided by (1) the Vienna Convention for the Protection of the Ozone Layer, 1985 (which was subsequently followed by the Montreal Protocol on Substances that Deplete the Ozone Layer (1987) (as amended in London 1990, Copenhagen 1992, Vienna 1995, Montreal 1997 and Beijing, 1999) and (2) the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

The compliance mechanisms described following Guideline 14(d), above, generally were established after the entry into force of the agreement. However, they were generally established pursuant to specific provisions in the MEAs. In contrast the LRTAP and Espoo compliance mechanisms were developed following entry into force of the respective MEAs.

Compliance mechanisms with authority to render stronger judgments and sanctions can emerge from “softer” mechanisms designed to facilitate implementation.



THE CITES REVIEW OF SIGNIFICANT TRADE

Initiated by a COP decision, the Review of Significant Trade process is the CITES mechanism for remedial action when there is reason to believe that certain listed species (in Appendix II) are being traded at significant levels without adequate implementation of CITES provisions. If implemented correctly, the process acts as a safety net for the Convention by ensuring that species are managed sustainably. The Animals and Plants Committees implement the mandate for this process.

The queen conch (*Strombus gigas*), has been reviewed under the Significant Trade process. The artisanal queen conch fishery and the trade in the valuable meat of this large marine snail are of particular importance to the Caribbean region. International trade requires CITES documents which should only be issued when relevant national CITES authorities are satisfied that two conditions are met: first, the conch were legally obtained in the State and, second, exports will not be detrimental to the survival of queen conch populations. After detailed reviews by the Animals Committee in 2003, a comprehensive set of recommendations was directed to 16 range States where exploitation of queen conch for international trade appeared problematic because levels of authorized exports might not be sustainable. The recommendations needed to be implemented by September 2005. A workshop of the CITES Secretariat with the affected range States in December 2005 showed that many if not all States had actively engaged in taking remedial measures, greatly improved their queen conch management and made considerable progress in addressing sometimes complex fishery and conservation issues. FAO and regional fisheries agreements, which had participated in the initiative, committed further support. This should ensure sustainable, transparent queen conch fishery and trade in full compliance with CITES provisions.

For more information, see <http://www.cites.org/> or contact cites@unep.ch

Photo taken by CITES Secretariat



Queen Conch



UNECE COMPLIANCE MECHANISMS THAT WERE DEVELOPED FOLLOWING ENTRY INTO FORCE

Convention on Long-Range Transboundary Air Pollution (LRTAP) and the Oslo Protocol

The text of the 1979 LRTAP Convention does not provide for the establishment of a compliance procedure. The compliance review procedure for the LRTAP Convention was established by a decision of the Executive Body and applies to all Protocols to the Convention. Two protocols, adopted prior to the Executive Body decision, did include articles on compliance: The Protocol on VOCs (article 3, paragraph 3), and the 1994 (Oslo) Protocol on Further Reduction of Sulphur Emissions (article 7). Article 7 would have established an Implementation Committee. In 1997, after entry into force of the Protocol on VOCs but prior to entry into force of the 1994 Sulphur Protocol, the Executive Body adopted decision 1997/2 establishing the Implementation Committee with a structure and functions and procedures for review of compliance with all Protocols (ECE/EB.AIR/53, annex III). Subsequent decisions expanded upon the applicability of the Implementation Committee, elaborating the procedures for review of compliance. All the subsequent Protocols contain an article on compliance providing for regular reviews of compliance to be carried out by the Implementation Committee in accordance with its agreed terms of reference and procedures.

The first LRTAP Protocol incorporated an existing monitoring programme into the Convention, the Co-operative Programme for Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe (EMEP). EMEP's main function is to supply States Parties with information on the deposition and concentration of targeted pollutants, and on the quantity and significance of the flow of those pollutants across international borders. EMEP supervises a continuous, daily monitoring programme that measures emissions and the deposition of targeted substances throughout Europe (see <http://www.emep.int>).

EMEP organises and evaluates the emission data reported by the Parties, and has worked to develop common methodologies to calculate emissions. The Executive Body, composed of representatives of each contracting Party, is charged with reviewing implementation of the Convention.

The compliance system relies upon an Implementation Committee, which has the power to review the compliance of Parties with their reporting requirements. Coupled with the EMEP's role in monitoring data, the LRTAP Implementation Committee leads the review and verification of Parties' compliance with their treaty commitments. LRTAP's Implementation Committee is composed of nine Convention Parties, each of whom must be Party to at least one Protocol to the Convention.

The Implementation Committee can gather additional information by requesting the information through the Secretariat, gathering it in the Party's territory (but only upon invitation by the Party), or by receiving such information from the Secretariat. At the

UNECE Compliance Mechanisms that Were Developed Following Entry into Force (cont'd)

request of the Executive Body, the Committee prepares reports on compliance with an individual Protocol or on implementation of specified obligations under a Protocol. The Committee includes 9 members, who are elected as Parties (not in their personal capacity).

A Party under review is entitled to participate in the Committee's deliberations, but it will not be able to take part in the preparation or adoption of the Committee report. Moreover, the Committee must assure the confidentiality of any information that is given to it in confidence.

The Committee meets twice a year. As of 2004, the Committee had considered 8 submissions and referrals (by the Secretariat or self-referral), but none by one Party against another.

For more information, see <http://www.unece.org/env/lrtap/welcome.html>

The Espoo Convention

The Espoo Convention (on EIA in a transboundary context) did not address the establishment of a compliance procedure in its text. Article 11, paragraph 2 of the Convention requires the Parties to keep under continuous review the implementation of the Convention. The Compliance review procedure of the Espoo Convention was established by Decision II/4 of the 2nd Meeting of the Parties (MOP). The established procedure will be available for review compliance with any future amendments or protocols to the Convention.

In general, the compliance review procedure is based on the model adopted by the LRTAP Convention (see above and in case study following Guideline 14(d)). There are slight differences concerning the triggering mechanisms and more flexibility regarding the adoption of decisions by the Implementation Committee or the MOP where consensus cannot be reached. [The MOP meets every three years, so waiting for the MOP to adopt recommendations might not be feasible where there is need for more prompt action.] Consensus is preferred, but decisions can be made by a majority vote if consensus cannot be reached. In such a case, the views of the members in the minority are reflected in the report. The MOP can also make decisions by a majority vote.

The structure and the functions of the Committee, currently contained in the appendix to the Decision, will be reviewed at the 3rd MOP, bearing in mind the possible involvement of the public. So far, observers have been allowed at the five Committee meetings.

For more information: <http://www.unece.org/env/eia/implementation.htm> and <http://www.cites.org/> or contact cites@unep.ch



COMPLIANCE MECHANISM FOR THE KYOTO PROTOCOL

Neither the UNFCCC nor the Kyoto Protocol (which includes most of the binding commitments to reduce greenhouse gases) specifies a compliance mechanism, although Article 18 of the Protocol refers to a compliance mechanism.

Discussions regarding how non-compliance with Protocol obligations should be handled have been contentious. For example at COP-6, some States argued for binding consequences (either in the form of additional obligations or financial penalties — and there was considerable disagreement over which consequences were appropriate). Other States argued that non-binding consequences were preferable, in part because binding consequences would require an amendment process (with its own negotiating, signature, and ratification processes).

COP-7 adopted the Marrakech Accords which included a “rulebook for compliance” with the Protocol, establishing a Compliance Committee with two separate but complementary branches: a facilitative branch and an enforcement branch. The facilitative branch is primarily for developing countries, and it seeks to facilitate and assist countries to come into compliance. This is particularly relevant where non-compliance results primarily from a lack of capacity and not necessarily a lack of political will. In contrast, the enforcement branch has the power to review allegations of non-compliance and to impose a range of sanctions including financial penalties, forfeiting access to mechanisms such as emissions trading, and/or reductions in future allocations of allowable emissions. The Compliance Committee met first in 2006.

For more information, see <http://unfccc.int/resource/docs/cop7/l21.pdf> or contact secretariat@unfccc.int



DEVELOPMENT OF A COMPLIANCE MECHANISM FOR THE MONTREAL PROTOCOL

The Montreal Protocol built on the framework of the Vienna Convention with the goal of reducing the consumption and production of ozone-depleting substances (ODS) through binding time-bound targets for action and a step-wise schedule to phase out ODS. The terms of this Protocol and the decisions of MOP provided measures for realising these objectives and ensuring compliance by the Parties. These include:

- Setting up control measures for Parties (Art. 2) and non-Parties (Art. 4);
- Regulating the level of consumption of ozone depleting substances (ODS) (Arts. 2A, 2B, 2C, 2D, 2E, 2F, 2G, and 2H);
- Requesting Parties to report data on their production, import, and export of the controlled substances (Art. 7);
- Promoting research, development, public awareness, and exchange of information (Art. 9);
- Establishing a financial mechanism – the Multilateral Fund – to meet all agreed incremental costs of Parties operating under Art. 5(1) and to finance clearinghouse functions to assist those countries (Art. 10);
- Requiring all Parties to take every practicable step to transfer the best available, environmentally safe substitutes, and related technologies to Parties operating under Art. 5(1); and
- Introducing additional control measures for methyl bromide applicable to developing countries and accelerate those for developed countries, as well as a requirement for all Parties to establish import/export licensing systems for ODS.

(Source: Decision of the Ninth Meeting of the Parties).

In addition, the Meeting of the Parties to the Montreal Protocol established an Implementation Committee, following entry into force of the Protocol. (Decisions II/5 and IV/5 of the Meeting of the Parties);

For more information, see http://www.unep.org/ozone/Meeting_Documents/impcom/index.asp or contact the Secretariat at <http://www.unep.org/ozone/Contacts/index.asp>

Dispute Settlement Provisions

[17] *In principle, provisions for settlement of disputes complement the provisions aimed at compliance with an agreement. The appropriate form of dispute settlement mechanism can depend upon the specific provisions contained in a multilateral environmental agreement and the nature of the dispute. A range of procedures could be considered, including good offices, mediation, conciliation, fact-finding commissions, dispute resolution panels, arbitration and other possible judicial arrangements which might be reached between concerned parties to the dispute.*

Dispute settlement provisions are not unique to MEAs — they have long been an essential element of international agreements, because they provide the procedures by which disagreements among the Parties regarding the agreement can be resolved.

Dispute settlement provisions are included in a growing number of MEAs (most of the major global MEAs have dispute resolution mechanisms). Despite the number of available procedures, in practice States have shown reluctance to submit to the formal dispute settlement. In part, this is due to the fact that most of these provisions are not compulsory. Thus, in order for an aggrieved Party to avail itself of the mechanism, the other Party must consent to using the mechanism. Generally speaking, MEAs tend to focus on mechanisms that promote compliance (see the discussion relating to Guidelines 14 and 16), rather than on formal dispute settlement procedures. In more than a decade, the provisions for an arbitral tribunal under the CBD have never been invoked formally — and this is not unique for MEAs.



[14]

[16]

A 2001 UNEP study on “Dispute Avoidance and Dispute Settlement in International Law” highlighted methods for resolving potential disputes regarding MEAs. The study emphasised the need to address potential disputes at the earliest possible stage in order to avoid disputes, as well as utilising informal, non-confrontational approaches to address disagreements and disputes. Ideally, dispute settlement provisions of an MEA will simply be there as a “safety net,” to be employed only when measures to promote compliance and avoid disputes have not been effective. Dispute settlement provisions typically call for less confrontational measures, such as good offices and conciliation, to be attempted first. If these are unsuccessful, more formal measures such as arbitration or other judicial arrangements may be employed.

Increasingly, dispute settlement bodies accept complaints by NGOs and private individuals against States, as well as interventions (including amicus curiae or “friend of the court” briefs) by NGOs in disputes between States. These bodies include, for example, the World Trade Organization (amicus briefs), the Inter-American Court for the Protection and Promotion of Human Rights (complaints in environmental cases), and the International Court of Justice (amicus briefs).



LAW OF THE SEA TRIBUNAL

With the entry into force of the UN Convention on the Law of the Sea (UNCLOS) in 1994, the Law of the Sea Tribunal was established. The Tribunal may hear any dispute concerning the application or interpretation of UNCLOS, except as otherwise provided in the Convention. Its jurisdiction also extends to disputes concerning the interpretation or application of other agreements related to the purposes of UNCLOS that are submitted to the Tribunal in accordance with the other agreements. In deciding cases, the Tribunal applies the United Nations Convention on the Law of the Sea and other rules of international law not incompatible with the Convention. The Tribunal is competent for disputes arising between the following entities:

- States Parties;
- State enterprises, natural persons, or legal or judicial persons that are sponsored by States Parties and carrying out activities in the “Area” (namely, the seabed, ocean floor, and subsoil thereof lying beyond the limits of national jurisdiction); and
- the “Authority” (which is the organization through which States organise and control activities in the Area) or the “Enterprise” (which is the organ of the Authority that carries out activities in the Area as well as the transporting, processing, and marketing of minerals recovered from the Area).

Alongside the Seabed Dispute Chamber, which has jurisdiction in disputes regarding activities in the Area, the Tribunal may form such chambers, composed of three or more of its elected members, as it considers necessary for dealing with particular categories of disputes.

For more information, contact itlos@itlos.org or see

http://www.itlos.org/start2_en.html and

http://www.un.org/Depts/los/convention_agreements/texts/unclos/closindx.htm



INTERNATIONAL COURT OF ENVIRONMENTAL ARBITRATION AND CONCILIATION

The International Court of Environmental Arbitration and Conciliation (ICEAC) facilitates the settlement of environmental disputes submitted by States, natural persons, or legal persons through conciliation and arbitration. It was established in 1994 in Mexico by 28 lawyers from 22 different States.

Upon request, the Court may give Consultative Opinions relating to disputes and other issues of environmental law. Consultative Opinions may be:

International Court of Environmental Arbitration and Conciliation (cont'd)

- Preventive, to ascertain whether a proposed action is compatible with environmental law;
- Confirmatory, to confirm that an action has been carried out in compliance with environmental law; or
- Denunciatory, to enquire whether an action by another person complies with environmental law, and if not to make that information available to the international community.

For example, in 2003, the Court issued a Consultative Opinion on the Compatibility between Certain Provisions of the Convention on Biological Diversity and the Agreement on Trade Related Aspects of Intellectual Property Rights as to the Protection of Traditional Knowledge. Other Consultative Opinions relate to "Regulation of Fishing Methods and Gear," "Protection of the Meridian Frog," and the transportation and disposal of waste and dangerous substances in Sonora, Mexico.

In resolving disputes and in issuing Consultative Opinions, the Court invokes and applies a range of bodies of law, including:

- international treaties and applicable private contracts;
- general rules and principles of international environmental law;
- relevant national law, in accordance with generally accepted rules of private international law; and
- any other principles, rules, or standards that the Court deems relevant, including equity.

For more information, see <http://iceac.sarenet.es/> or contact Dr. Eckard Rehbinder rehbinder@jur.uni-frankfurt.de or Demetrio Loperena Rota ciacaciv@sarenet.es



INTERNATIONAL COURT OF JUSTICE (ICJ)

The ICJ is the primary judicial organ of the United Nations. Pursuant to provisions in various international agreements (including the Statute of the ICJ, the organic document establishing the ICJ), the ICJ is charged with resolving various disputes between States. States can recognise compulsory jurisdiction of the Court; in doing so, many States exempt certain classes of cases from compulsory jurisdiction. This partial exemption is controversial but has been upheld. The ICJ can also issue non-binding Advisory Opinions at the request of UN bodies.

There are 15 Members of the Court, who are elected by the UN Member States and other States Parties to the Statute of the ICJ. In some instances, Judges Ad Hoc may sit on an ICJ panel to hear and decide a case. Pursuant to Article 38 of the ICJ Statute, the Court may consider a variety of legal sources in deciding cases:

- a. international conventions, whether general or particular, establishing rules expressly recognised by the contesting states;
- b. international custom, as evidence of a general practice accepted as law;
- c. the general principles of law recognised by civilized nations;
- d. subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.

The ICJ differs from many other international tribunals in that:

- ICJ judges must be continuously at the disposal of the Court and cannot sit on other tribunals;
- the ICJ is permanent in its constitution and its established rules; and
- Parties do not have to pay fees or administrative costs, which are covered by the UN.

Recognising the rapid growth of international environmental law and the growing number of international cases that touched on environmental matters, the ICJ established a specialised Chamber for Environmental Matters in July 1993. The Chamber consists of a panel of seven ICJ judges. The Chamber is empowered to hear environmental cases only with the consent of the parties to the case. As a practical matter, though, the ICJ's environmental cases generally proceed through the standard ICJ process, and have yet to take advantage of the specialised Chamber.

For more information, see <http://www.icj-cij.org>



PERMANENT COURT OF ARBITRATION

Established in 1899, the Permanent Court of Arbitration (PCA) resolves disputes among States, private parties, and intergovernmental organisations through arbitration, conciliation, and fact finding. It claims to be “the first global mechanism for the settlement of inter-state disputes.”

Each Party to the PCA can appoint up to four arbitrators (“Members of the Court”) to a standing roster. When there is a dispute for the PCA to resolve, each Party appoints two arbitrators from this roster, and the four arbitrators (two from each Party) select an umpire.

The International Bureau is the PCA’s Secretariat. It assists parties in selecting arbitrators, and performs other legal and administrative functions. English and French are the official working languages of the PCA, although the Parties can agree to conduct proceedings in any language.

The PCA has adopted guidelines and model clauses for traditional dispute settlement in environmental treaties. These generally rely upon and build upon precedents, since existing approaches have been tested and are more likely to be adopted. In 2001, the PCA Administrative Council adopted Optional Rules for Arbitration of Disputes Relating to the Environment and/or Natural Resources. The Environmental Conciliation Rules, adopted in 2002, complement the earlier rules on arbitration. These Rules were developed by the International Bureau and a working group and drafting committee of experts in environmental law and arbitration.

The PCA also provides guidance on drafting environment-related dispute settlement clauses. For example, in 2003 the UNECE approved reference to the PCA Environmental Arbitration Rules in its draft “Legally Binding Instrument on Civil Liability under the 1992 Watercourses and TEIA Conventions.” The PCA has also collaborated with the CBD, the Biosafety Protocol, and UNFCCC COPs.

The PCA convenes seminars on international law and publishes the papers in independent volumes. These have included *International Investments and Protection of the Environment: The Role of Dispute Resolution Mechanisms* (2001) and *Resolution of International Water Disputes* (2003).

For more information, see <http://www.pca-cpa.org/> and especially <http://pca-cpa.org/ENGLISH/EDR/> or contact bureau@pca-cpa.org



STRATEGIC USE OF INTERNATIONAL AND DOMESTIC DISPUTE RESOLUTION MECHANISMS IN THE DANUBE DELTA CASE

In 2003, The Government of Ukraine approved a project to dig a deep-water navigation channel through Ukraine's portion of the Danube Delta Bilateral Biosphere Reserve. Ecopravo-Lviv (EPL), a Ukrainian public interest environmental law NGO, challenged this decision on both environmental and procedural grounds (including a lack of public participation in the EIA process). In addition to seeking remedies in national courts (see case study under Guideline 41(i)), EPL filed complaints with a variety of relevant international bodies in late 2003 and early 2004. These include:

- The Compliance Committee of the Aarhus Convention (on access to information, public participation in decision-making and access to justice in environmental matters). Romania also subsequently filed a complaint with the Compliance Committee;
- The Implementation Committee of the Espoo Convention (on EIA in a transboundary context). [The Implementation Committee refused, by a vote of 4-3 in 2004, to consider the complaint.] Romania subsequently filed a complaint with the Implementation Committee;
- A Letter of Emergency Notification filed with the Executive Secretary of the Convention on the Conservation of Migratory Species;
- An Emergency Complaint filed with the Permanent Secretariat of the International Commission for the Protection of the Danube River; and
- A Letter of Notification filed with the Secretariat of the African-Eurasian Waterbird Agreement (AEWA).

In addition EPL has raised the issue with the Ramsar Convention and the UNESCO Man and Biosphere Programme, and both institutions have expressed concern about the channel.

This strategy of seeking relief through multiple domestic courts and international dispute resolution mechanisms can be resource intensive. Also non-state actors that seek recourse from an international mechanism may — but not necessarily — be required to exhaust domestic remedies first. Exhaustion of remedies depends on the terms of the particular MEA or institution, and there often are exceptions for specific instances (e.g., emergency or futility).

For more information, see

http://www.epl.org.ua/files/Danube/Danube_EPL_actions.doc or contact Mr. Andriy Andrusovych at aandrus@mail.lviv.ua



Additional Materials on MEAs

- Axel Bree & Sebastian Jungnickel, *Harmonization of the Dispute Settlement Mechanisms of the Multilateral Environmental Agreements and the World Trade Agreements* (Erich Schmidt Verlag 2003).
- John C. Collier & Vaughan Lowe, *The Settlement of Disputes in International Law: Institutions and Procedures* (Oxford University Press 1999).
- Xue Hanqin, *Transboundary Damage in International Law* (Cambridge University Press 2003) (from a developing country perspective, examining the international rules and compensation procedures relating to international environmental disputes).
- Tuula Lolari, *Promoting Compliance with International Environmental Agreements – A Multidisciplinary Approach* (University of Joensuu 2004).
- Cesare P.R. Romano, *The Peaceful Settlement of International Environmental Disputes: A Pragmatic Approach* (Kluwer Law International 2000) (examining in detail 10 high-profile environmental disputes that were the subject of international adjudication, explaining the origins of the dispute, how and why the case was brought before that particular jurisdiction, the proceedings, the judgment, and the aftermath of the case. This study takes a pragmatic approach to determine under which conditions international adjudication, as currently structured, can effectively address environmental degradation and the ensuing international disputes. It illustrates how MEAs have provided for the settlement of disputes that may arise from their implementation, with special attention given to compliance procedures.).
- Shabtai Rosenne, *Provisional Measures in International Law: The International Court of Justice and the International Tribunal for the Law of the Sea* (Oxford University Press 2005) (examining the law and practice of two international tribunals regarding provisional measures of protection, the international equivalent of an interim injunction).
- Philippe Sands et al., *Manual on International Courts and Tribunals* (Butterworth-Heinemann 1999).
- Constanze Schulte et al. (eds.), *Compliance with Decisions of the International Court of Justice* (Oxford University Press 2005).
- Yuval Shany, *The Competing Jurisdictions of International Courts and Tribunals* (Oxford University Press 2003) (surveying theoretical and practical issues relating to overlapping and competing jurisdictions of international dispute resolution bodies, identifying rules of law to apply).
- Alexandre Timoshenko (ed.), *Dispute Avoidance and Dispute Settlement in International Environmental Law: Compilation of Documents* (UNEP 2001).

☑ CHECKLIST FOR INTERNATIONAL DISPUTE SETTLEMENT

In negotiating the inclusion of a dispute settlement mechanism in an MEA, States first must agree on which procedure or procedures to incorporate. The options include:

- negotiation and good offices;
- mediation (generally non-binding and facilitative; involves an independent third party, as do the other options below)
- conciliation (similar to mediation, but the disputing parties rarely if ever meet in the presence of the conciliator),
- arbitration (generally binding, but with fewer rules of procedure and often not public),
- judicial settlement (binding decisions and usually public),
- fact-finding/commissions of inquiry, and
- non-compliance procedures (see Guideline 14(d)).

If more than one approach is chosen, the negotiating States will need to decide upon the relationship among the different modalities.

In addition, other key issues will need to be agreed upon. This can be done in the MEA text or later (by the COP, by other organs established under the MEA, or even by the dispute settlement body itself). These issues include:

- Exhaustion of prior remedies: Frequently, MEAs require States to take some prior steps to resolve the dispute before resorting to a formal dispute settlement procedure.
- Invoking the dispute settlement procedure: Are the dispute settlement procedures mandatory or optional? Mandatory procedures can be invoked by one or more parties unilaterally. Optional procedures will only be applied if two or more parties involved have agreed upon it beforehand.
- Jurisdiction of the body: In particular, establishing the: (1) Jurisdiction *rationae materiae* (setting forth the substance of what disputes that can be submitted for resolution); (2) Jurisdiction *rationae personae*, (who can invoke the dispute settlement procedure and against whom it can do so); and (3) Jurisdiction *rationae temporis* (within what timeframe the disputes must be submitted).
- Applicable law: This includes both the sources of the law (the MEA, other treaties, international law, domestic law (of which State?), etc.) and the substantive and procedural aspects of the law.
- Adjudicators or members of the body: This includes which body or persons are competent to serve, how they will be selected, and procedures for resolving disagreements over the adjudicators.
- Powers of the dispute settlement body: Will it be competent to address questions of fact as well as law, to investigate (what sources of information?), to prescribe remedies (what remedies?), to declare or order interim measures of protection, etc.?
- Third party intervention: Can interested third parties intervene? Under what circumstances?
- Procedural rules: Because these are often too complex to be handled by the MEA, the MEA can either specify that the dispute settlement body will choose them, or the MEA can refer to existing rules, such as those of the PCA.

Checklist For International Dispute Settlement (Cont'd)

- Timetable and costs: It can be worth setting a strict timetable for the dispute settlement process, as well as who shall bear the costs.

This Checklist was developed based on materials on the PCA web site:

<http://www.pca-cpa.org/>

D. National Measures to Implement MEAs

Although negotiations leading to an MEA's adoption and the careful drafting of its provisions are vital elements in ensuring its implementability, the ultimate responsibility for complying with its terms generally rests with the Parties. Implementation at the national level is at the core of an MEA's effectiveness, and each Party to an MEA is responsible for complying with the obligations it imposes and for taking the necessary measures to bring about that compliance.

There are a number of processes by which a State can become party to an MEA, including ratification, accession, acceptance, and approval. These are summarised in the "Primer on Negotiating and Ratifying MEAs," at the beginning of Chapter I.

Given the central role of national implementation, the Guidelines place particular emphasis on the variety of measures and approaches a State can take to ensure that it meets its obligations under an MEA. These measures cover a wide range of activities: from formal institutional and legal review to public awareness campaigns. The measures set forth in the Guidelines devoted to national implementation may be tailored to suit the needs of an individual State, but each one is worthy of consideration, as each offers a different and unique avenue for improving implementation at the national level. Guidelines 18-32 set forth many of these national measures. In some cases, national measures to promote implementation — namely for a Party to comply with its obligations under an MEA — are also included in the chapter of the Guidelines addressing enforcement. In these instances, the full discussion of the measure is included only in one chapter, with a cross-reference from the other chapter.


[18-32]

As a practical matter, States can reduce the likelihood of non-compliance with the obligations of an MEA after ratification by undertaking the necessary national measures (and subnational measures, as appropriate) to implement the MEA before becoming party to the agreement. Accordingly, Guideline 8 of the UNECE Guidelines for Strengthening Compliance with and Implementation of Multilateral Environmental Agreements in the UNECE region provides that:

All legal and other appropriate measures required to implement the agreement should be in place, in order to ensure that a Party is in a position to comply with its international obligations at the time of entry into force of the MEA for that Party.

CHECKLIST FOR RATIFICATION AND ACCESSION

As noted in the Primer on Negotiating and Ratifying MEAs (at the beginning of Chapter I of this Manual), every State has its own rules and procedures governing how it becomes a Party to an MEA. To the extent that their constitutions and national laws permit, States may consider the following actions related to ratification:

- Identify or develop clear procedures for becoming a Party to an MEA.
 - In establishing these procedures, the scope of treaties should be defined broadly enough to include all MEAs of likely significance to the State.
- Provide a role for Parliament in deciding whether the State should become a Party to an MEA. Engaging Parliament in this phase can build parliamentary “ownership” of the MEA and facilitate the development of the necessary laws, institutions, and financing to implement and enforce the MEA.
 - Such a role could range from providing for Parliamentary discussion and debate of the MEA to requiring Parliamentary approval.
 - The parliamentary discussion and debates may be made available by radio or television broadcast, or otherwise publicly disseminated.
 - To the extent that the State may wish to withdraw from an MEA, Parliament may be granted the same role in discussing and debating (and perhaps being required to approve) the decision.
- Ensure that the rules governing becoming a Party to an MEA require the political focal point or other relevant governmental body to communicate the State’s acceptance to the Depository and the MEA Secretariat within a specific timeframe.
- Developing legislation to implement the MEA simultaneously or in advance of becoming a Party.
- Guarantee that once the State has signed an MEA (but has not yet ratified the MEA) that it refrain from any activities that would undermine or be counter to the MEA.
- Provide courts with the power to take judicial notice of MEAs that have been signed by the State.

This Checklist builds upon a similar checklist in the 1999 CARICOM Guidelines for MEA Implementation.

* For a summary of the differences between ratification, accession, approval, adoption, and signature, see the “Primer on Negotiating and Ratifying MEAs,” at the beginning of Chapter I.

Compliance Assessment and Compliance Plans

[18] *Compliance assessment: Prior to ratification of a multilateral environmental agreement, a State should assess its preparedness to comply with the obligations of that agreement. If areas of potential non compliance are identified, that State should take appropriate measures to address them before becoming a party to that agreement.*

[19] *Compliance plan: If a State, once it becomes a party to a specific multilateral environmental agreement, subsequently identifies compliance problems, it may consider developing a compliance plan consistent with that agreements obligations and inform the concerned secretariat accordingly. The plan may address compliance with different types of obligations in the agreement and measures for ensuring compliance. The plan may include benchmarks, to the extent that this is consistent with the agreement that would facilitate monitoring compliance.*

Compliance assessments are important to conduct prior to ratifying an MEA. Such an assessment provides a State the opportunity to assess its ability to comply with the terms of the MEA before ratifying it, as failure to do so could result in non-compliance the instant it becomes a Party. As such, the compliance assessment allows a State to identify and correct areas of potential non-compliance so that it is able to meet its obligations immediately upon ratification. In many cases, the compliance assessment will identify changes that need to be made to national, sub-national, and local laws to ensure compliance. Because the adoption of implementing law can be a long process, depending on the State's legislative system, it can be important to conduct compliance assessments early in the negotiating process so that the State can negotiate with the full knowledge of what national measures might be necessary. Moreover, a compliance assessment can assist in the early development of necessary framework and sectoral laws to implement the MEA (see the discussion of Guideline 20, below, devoted to implementing laws and regulatory frameworks).



Even States that have taken all necessary steps prior to ratification, however, may find that they subsequently identify areas of non-compliance after becoming a Party. In such



BIODIVERSITY COUNTRY STUDY IN GEORGIA

After Georgia ratified the CBD in 1994, it undertook a Biodiversity Country Study. This study was required by the CBD. Published in 1997, this study gathered and compiled existing information on the status and trends of Georgia's species and habitats. It identified gaps and made recommendations for conserving the nation's biodiversity.

For more information on the study, contact the NGO Nacres at striped.hyena@nacres.org

instances, states are encouraged to consider developing a compliance plan to address these areas of non-compliance and to inform the Secretariat of the MEA of the plan. The plan may identify the specific areas of non-compliance, measures to correct the situation, and benchmarks for determining if the problems are being corrected.

The procedures and mechanisms on compliance under the Cartagena Protocol on Biosafety adopted by the COP-MOP at its first meeting, mandate the Compliance Committee to request or assist, as appropriate, Parties in non-compliance to develop a compliance plan within a timeframe to be agreed upon between the Committee and the Party concerned (Decision I/7).



In addition to the case studies below, many of the considerations set forth in the Checklist for Developing National Implementation Plans (following Guideline 21) may be relevant to compliance assessment and the development of a compliance plan.



NEW ZEALAND: PREPARING TO IMPLEMENT THE KYOTO PROTOCOL

The Government of New Zealand announced its intention to ratify the Kyoto Protocol to the UNFCCC at the 2002 World Summit on Sustainable Development (WSSD). Some months before, implementing legislation – the Climate Change Response Bill – was presented before New Zealand’s Parliament. This Bill aimed to:

- Provide for the establishment of the administrative powers and bodies that are required under the Protocol (or that are necessary if New Zealand is to benefit from the compliance mechanism under the Protocol) with a view to allowing for ratification; and
- Formalise the powers and institutions necessary for New Zealand to continue to meet its obligations under the UNFCCC.

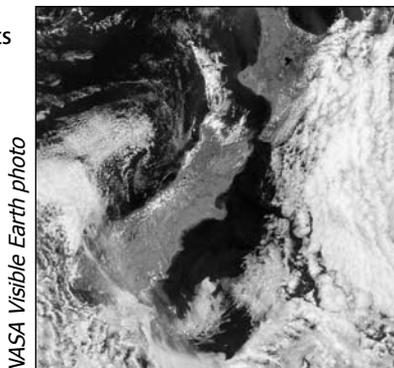
The Government of New Zealand also released its Preferred Policy Package, which details the policies that it intends to put in place to respond to climate change and to meet its obligations to reduce greenhouse gas emissions pursuant to the Protocol’s requirements. According to the Preferred Policy Package consultation document, the Government intends that the following measures will be utilised in the pre-commitment period (i.e., before 2008):

- Building on existing “foundation policies”, including the National Energy Efficiency and Conservation Strategy, the New Zealand Transport Strategy, the New Zealand Waste Strategy, Resource Management Act reform, research, and public awareness. These measures are already under way and will proceed whether or not the Protocol comes into force.
- The introduction of Negotiated Greenhouse Agreements (NGAs) for “Competitiveness-at-risk” firms. An NGA is a contract between the Government and a firm or sector to reduce emissions toward an agreed level in return for partial or full exemption from an emissions levy or charge.

New Zealand: Preparing to Implement the Kyoto Protocol (cont'd)

A particular advantage of NGAs is that an agreed "emissions path" can be tailored to a firm's individual circumstances. NGAs might also include opportunities for a firm to get involved in off-site projects or emissions trading, if the regime were established, to reduce costs.

- The introduction of Government- and industry-funded research in the agricultural sector.
- The introduction of funding and projects to promote efficient emissions reduction and sinks creation. In this context, projects are specific recognised activities that seek to deliver defined reductions in emissions but which would be uneconomic without the payment of an incentive from the Government. Projects are intended to deliver a reduction in emissions that would not have otherwise occurred.
- The introduction of an emissions charge for carbon dioxide (CO²) approximating the international price for emission units, but capped at \$25 per tonne of CO² equivalent. There will be no charge on emissions of non-CO² gases during the first commitment period.
- The Government is to retain sink credit assets and liabilities.



NASA Visible Earth photo

Runoff from flooding in New Zealand.

Notably, none of the new policies identified in the Preferred Policy Package will be implemented for the first commitment period until the Protocol comes into force. In other words, the new policy measures are specifically designed to deal with the State's potential Protocol obligations and will only apply once the protocol is effective.

The advantage of this preliminary policy planning is that New Zealand already has in place clearly defined measures to address many of the issues that may have kept some States from ratifying the Protocol. These measures can also be further fine-tuned as time goes on. Through these preliminary measures, New Zealand has mapped out a proactive roadmap that will serve to ease its compliance and implementation process.



IVORY COAST'S PROCESS FOR DECIDING WHETHER TO BECOME A PARTY TO AN MEA

When a Multilateral Environmental Agreement (MEA) is negotiated and adopted at the international level, it is received by Ivory Coast's Ministry of Foreign Affairs. The Ministry then sends a copy of it to the Ministry in charge of the environment. The competent authority within the Ministry in charge of the environment issues its opinion on the importance of the objectives of the MEA with respect to the national environmental policy.

If the MEA is considered to be in the best interests of the State, then the Ministry in charge of the environment prepares, in collaboration with the Ministry of Foreign Affairs, a communication to the Council of Ministers co-signed by the two Ministers that informs the Government of the need to become party to the MEA.

The Government then introduces to the National Assembly a bill authorising the President of the Republic to commit the State to the MEA. If the National Assembly approves the Law of authorisation, the President issues a decree binding the Ivory Coast to the MEA.

Note: This procedure applies to MEAs regardless of whether or not the Ivory Coast participated in the negotiations.

For more information, contact Mr. Théodore Dah at the Ivory Coast's Department of United Nations and Specialized Institutions (tel.: +225-20325021).

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CITES COMPLIANCE PLANS

Compliance plans have been used in the context of CITES to address the development of adequate legislation, the improved management of Appendix-II species that are subject to significant levels of legal trade, the strengthening of enforcement measures to deal with illegal trade, and the payment of contributions to the CITES Trust Fund.

A CITES Legislation Plan, for example, should include: the legal form of enactment (legislative or regulatory); the precise scope and content of the proposed legislation; the schedule for transmittal of the draft legislation to the CITES Secretariat for comment (e.g., on whether it fully meets the four minimum requirements for implementation of the Convention described in Resolution Conf. 8.4); the legislative and administrative steps that must be taken to adopt the legislation; and the timeframes for initiating and completing each stage of the law-making process.

For more information, see <http://www.cites.org> or contact cites@unep.ch



ASSISTANCE TO NEW PARTIES TO THE RAMSAR CONVENTION

When a State becomes a Party to the Ramsar Convention on Wetlands, the Ramsar Secretariat sends a diplomatic note to the relevant authorities, including an information package, the Ramsar manual, and the Ramsar handbooks.

As Parties and non-Parties alike participate in regional Ramsar activities (including regional meetings and training courses), and non-Parties are also sponsored to attend the meetings of the Conference of the Parties, their knowledge about the Convention and its processes often is quite good by the time a State accedes to the Convention. In some cases, a training course at the national level takes place before accession to inform the Government about its future obligations and to explain the goals and operation of the Convention. In other cases, the training course for the national focal point and other relevant Government agencies takes place after accession, depending on the Government's request.

For more information, contact the Ramsar Secretariat ramsar@ramsar.org

Implementing Laws and Regulation

[20] *Law and regulatory framework: According to their respective national legal frameworks, States should enact laws and regulations to enable implementation of multilateral environmental agreements where such measures are necessary for compliance. Laws and regulations should be regularly reviewed in the context of the relevant international obligations and the national situations.*

Development and adoption of implementing laws and regulations are among the most vital steps a Party will take to comply with an MEA. Depending on its governmental structure, however, a State may encounter difficulties in ensuring the necessary laws are enacted. Moreover, some developing countries have found it an uphill struggle to enact all the necessary legislation to come into compliance with the different MEAs to which they are a Party, due to insufficient capacity. Each State should be aware of the challenges and advantages its governmental structure offers in this context. Such self-awareness can lead in turn to taking advantage of the unique benefits its structure offers and to seeking assistance in capacity building where necessary.

Further detail on implementing laws and regulations is set forth in Guidelines 40 and 47 and the accompanying discussion. Additionally, some of the MEA guidance discussed following Guideline 34 (e) is designed to assist States in developing implementing legislation.



[34(e)]

[40]

[47]

National Implementation Plans

[21] *National implementation plans: the elaboration of national implementation plans referred to in paragraph 14(b) for implementing multilateral environmental agreements can assist in integrating multilateral environmental agreement obligations into domestic planning, policies and programmes and related activities. Reliable data collection systems can assist in monitoring compliance.*

As described in Guideline 14(b), above, numerous MEAs require or encourage Parties to elaborate National Implementation Plans (NIPs). This Guideline reiterates the importance of national implementation plans in integrating (or “mainstreaming”) an MEA’s obligations into domestic legal, policy, and institutional frameworks. It also provides additional detail on the process for developing the implementation plans.

NIPs can identify policies, programmes, and plans in related sectors through which specific measures may need to be taken in order for the MEA to be effectively implemented. For example, long-term national development plans in various States (e.g., Iran) that articulate a national vision for economic, social, and environmental development now highlight environmental issues and MEA obligations.

 In many instances, NIPs would do well recognize national priorities placed on poverty reduction and consider potential synergies and conflicts with the national Poverty Reduction Strategy Paper (PRSP). For example, the African Ministerial Conference on Environment (AMCEN) is working to mainstream MEAs into PRSPs. Armenia’s NCSA process (described in Guideline 41(n)) linked to the discussions regarding the State’s PRSP. Similarly, the Government of Belgium is supporting a four-year programme (2004-2007) by which UNEP will enhance the capacity of four States – Uganda, Rwanda, Mozambique, and Tanzania – to integrate and institutionalise environmental management into national poverty reduction programmes and related activities. This programme has three components: (1) integration and mainstreaming of key environmental issues into Poverty Reduction Strategy Papers (PRSPs); (2) capacity building to alleviate poverty through synergistic implementation of Rio MEAs; and (3) capacity building for the development of national legislation implementing Rio MEAs taking into consideration the impact of implementation of poverty reduction. Through this programme, development and implementation of national environmental related laws to implement the Rio Conventions – namely the CBD, UNFCCC, and UNCCCD – UNEP will seek to implement MEAs while also promoting poverty reduction. For another example of linking to poverty reduction and alleviation, see the case study on “Cameroon’s National Project for Participatory Development” following Guideline 41(k).

[41(n)]

 **[41(k)]**

Many MEAs emphasize the important role of a transparent, inclusive, and participatory process for developing the NIPs. Experience in many nations suggests that such approaches are also effective in building the necessary support to implement the NIPs effectively.

As a practical matter, the relevant staff in government agencies sometimes does not have the necessary capacity or time to prepare a NIP. In such instances, consultants may be engaged (see below), but in these cases the transparent, inclusive, and participatory processes become even more important to ensure public ownership of the final plan.



USE OF CONSULTANTS IN DEVELOPING NATIONAL IMPLEMENTATION PLANS IN THE GAMBIA

Once The Gambia has become a Party to an MEA, a national strategy or action plan is generally prepared to determine the State's approach to implementing the MEA. For both the Stockholm and Rotterdam Conventions, consultants are preparing NIPs. Under a National Capacity Needs Self Assessment project, action plans were prepared under the leadership of the focal points for the three Rio Conventions, who worked with national consultants.

For more information, contact Mr. Kebba Bojang at nea@gamtel.gm

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In many instances, a State may be called upon to develop a NIP when the necessary data is limited or nonexistent. In such cases, it is wise to adopt an approach of "Adaptive Environmental Management." Adaptive management recognises that data is limited — often it is impossible to have enough data — so management measures are provisional. Under this approach, a State will use the data available to develop a NIP. During the implementation of the NIP, the relevant governmental agency or ministry will monitor the environment and the effectiveness of the measures articulated in the NIP. At some point, the Government will revisit the NIP to identify measures that are working and areas in which further development is necessary. The NIP is revised accordingly. Still, information is limited, so the revised NIP is provisional. Accordingly, more monitoring is necessary in this phase.

The process of developing management measures (such as an NIP), monitoring, assessing, revising, and so forth is a long-term commitment. Increasingly, though, environmental professionals are recognising that adaptive management approaches are necessary to address many (if not most) environmental problems. Recognising this at the outset can help to avoid confusion and disillusionment in the long run when the gaps in the NIP (or other management measures) are identified. [Indeed, Guidelines 13, 15, and 34(d) recognize the need to review the effectiveness of MEAs at the international level, and Guideline 41(n) envisions a review of the effectiveness of national environmental measures. Similarly, numerous Guidelines address monitoring.]



[13]

[15]

[34(d)]

[41(n)]

The Checklist below highlights considerations in developing a NIP. Where no competent national environmental agency or Ministry exists, a State can establish a steering committee to oversee such a process. To be effective and to be able to make decisions, such

a steering committee should have a mandate from the Cabinet or relevant Ministries. As described in various case studies throughout this Manual — and particularly those following Guidelines 10(d) and 42 — such a steering committee usually benefits from the involvement of multiple governmental agencies as well as NGOs, universities, and other civil society actors.



[10(d)]
[42]

For more information on NIPs, see Guideline 14(b) and the accompanying text. Guideline 34(e) and the accompanying text discuss various guidance documents, including some relating to the development of NIPs.



[14(b)]
[34(e)]



DEVELOPING STRATEGIES FOR IMPLEMENTING THE AARHUS CONVENTION IN SOUTH EASTERN EUROPE

With assistance from the Regional Environmental Center (REC) for Central and Eastern Europe, six States in South Eastern Europe developed national strategies for implementing the Aarhus Convention. The six States were Albania, Bosnia and Herzegovina, Bulgaria, FYR of Macedonia, Romania, Serbia and Montenegro; UN-administered Kosovo also participated.

A broad range of governmental and non-governmental stakeholders participated in the development of the national strategies. This transparent and participatory process built broad ownership of the strategy, as well as capacity to implement the Aarhus Convention.

The project activities also included capacity building workshops, local pilot projects on practical implementation of the Aarhus Convention, and preparation of guidance materials and manuals for officials and NGOs. The project was funded by the Ministry for Foreign Affairs of the Netherlands.

For more information, see

<http://www.rec.org/REC/Programs/PublicParticipation.html>

or contact Ms. Magdolna Toth Nagy tmagdi@rec.org



DEVELOPING A NATIONAL PLAN FOR ENFORCEMENT OF MEAs IN NICARAGUA

In Nicaragua, with the support of the Global Environment Facility (GEF), the Environmental Ministry (MARENA) has developed a National Plan to enhance capacities on enforcement of MEAs. This National Plan sets Nicaragua's priorities and identifies the synergies necessary to enhance the capabilities for compliance. The plan establishes five action lines: Capacity Building, Enhancing of Law Enforcement, Monitoring of Compliance, Local and Territorial Support, and Citizen Education.

For more information,

see <http://www.marena.gob.ni> or contact jsmendoza@marena.gob.ni



PREPARING NATIONAL REPORTS ON IMPLEMENTING MEAs IN IVORY COAST

In the Ivory Coast, MEA implementation is done in dialogue with all the stakeholders interested in the objectives of the MEA. For example, implementation of the Rotterdam Convention on chemicals requiring prior informed consent (PIC) is led by the Ministry in charge of the environment in collaboration with the Ministries for Agriculture, Industry and Trade, consumers' associations, etc.

Generally, national reports on specific MEAs are prepared within the context of implementing projects relating to the MEA. The reports are submitted regularly to the executing institution, which transmits it to the relevant MEA Secretariat. An annual report on the implementation in Ivory Coast of all MEAs is produced and submitted to the Commission on Sustainable Development (CSD), which is held each year in New York.

*For more information, contact Mrs. Nassere Kaba kabanassere@hotmail.com
tel./fax.: +225-20211183.*



IMPLEMENTING THE CLEAN DEVELOPMENT MECHANISM (CDM) IN MOROCCO

Morocco understood early on that the CDM could provide a good opportunity to attract investments in cleaner technologies. Accordingly, Morocco was one of the first developing countries that ratified the Kyoto Protocol and designated a national authority in charge of the CDM (this was the Ministry in charge of Environment).

The Designated National Authority (DNA) is responsible for evaluating and approving national CDM projects. To assist it in fulfilling its functions, the authority has established a National CDM Council, which is a multidisciplinary advisory council. The DNA operates in accordance with internationally and nationally defined and known rules. It seeks to follow clear and transparent procedures. The DNA developed and adopted specific procedures for reviewing and approving national CDM projects. The first five projects were approved by DNA; two of these have been registered by the international CDM Executive Board, and the other three projects are undergoing review and registration.

In 2003, Morocco developed a national CDM strategy, and it has continued to refine the strategy through an ongoing process. The strategy entails three basic elements:

- The establishment of national organisational and institutional frameworks for CDM;
- The enhancement of the national capacities in this field; and
- The promotion of Moroccan CDM projects at the national and international levels.

The Moroccan CDM portfolio arose from the first mitigation studies that were included in Morocco's First National Communication. These studies led to the elaboration of a National Action Plan for the Reduction of Green House Gas (GHG) Emissions. Thereafter, the CDM portfolio was improved and expanded, within the framework of continuous and focused efforts.

Morocco's National Action Plan includes 25 projects that have been identified, taking into account a projected evolution of GHG emissions in Morocco by 2020. The Plan and the projects also account for national policies, programmes, and strategies, as well as Morocco's specific context and conditions. The 25 projects were proposed by Government departments, public and private institutions involved, or they were set forth in close collaboration with their managerial staff and officers.

As of early 2006, the CDM portfolio includes many projects with a considerable potential for reducing GHG emissions over the next decade. These projects primarily relate to renewable energies, reducing wasting of energy, and promoting energy efficiency. The project's portfolio is expected to be expanded to cover new sectors such as forestry, industry, and agriculture.

For more information, contact Mr. Rachid Firadi firadirachid@yahoo.fr or dcop@minenv.gov.ma or Ms. Naïma Oumoussa scc@minenv.gov.ma

✓ CHECKLIST FOR DEVELOPING NATIONAL IMPLEMENTATION PLANS

In developing a National Implementation Plan for a specific MEA, a State may wish to:

- Identify the relevant governmental and non-governmental stakeholders with an interest in the MEA. These stakeholders should include anyone who is affected by or is otherwise interested in the MEA or its implementation.
- In a broad, participatory, and transparent manner – with the relevant governmental agencies, Ministries, and authorities, as well as the relevant stakeholders – discuss the requirements of the MEA and what measures may be necessary to implement it.
 - These stakeholders should be engaged early in the process, while options are still open, to identify and respond to potential challenges and to build broad ownership of the final plan.
- Identify the requirements, obligations, and rights of an MEA. These may be specific or general, mandatory or advisory, and often include a combination of such requirements.
 - Developing countries should pay attention to whether and to what extent the MEA recognizes the particular needs and contexts of developing countries.
 - Determine whether developing countries can modify these obligations (including providing for longer timeframes to come into compliance) if necessary to account for economic, social, and other needs.
- Identify the resources available to assist in implementing the MEA. These resources can relate to legal, policy, scientific, technical, educational, financial, and other aspects of implementation. Personnel resources can include local and foreign experts in Government, the private sector, NGOs, and universities, as well as experts in international organizations.
 - In particular, States should identify the types of assistance (financial, technical, advisory, etc.) that might be available through the Secretariat, COP, or other MEA-based body. This can include funding mechanisms, technology transfer, etc.
 - After identifying these resources, ensure that the State accesses (or tries to access) all the financial and technical resources that may be available.
- Assess the likely impacts of the MEA on economic growth, development, investment, and international trade.
- Assess the likely impacts of the MEA in catalyzing or strengthening domestic (national and local) environmental protection and management initiatives.
- Identify the existing national and sub-national legal, policy, and institutional frameworks that relate to the MEA. In addition to the obvious frameworks, a particular MEA may well touch on other sectors, such as transportation, energy, land use, industries, etc.
- Identify potential barriers to effective implementation. These may be legal, policy, and institutional, as well as cultural, religious, or social.
- With reference to the potential barriers, identify potential mandatory (“command-and-control”) and voluntary (e.g., market-based) mechanisms that could facilitate implementation.

Checklist for Developing National Implementation Plans (cont'd)

- Identify potential projects to build governmental, private sector, and civil society capacity for the State to come into compliance.

This Checklist builds upon a similar checklist in the 1999 CARICOM Guidelines for MEA Implementation.

Enforcement Programmes and Frameworks

[22] *Enforcement: States can prepare and establish enforcement frameworks and programmes and take measures to implement obligations in multilateral environmental agreements (chapter 2 contains guidelines for national environmental law enforcement and international cooperation in combating violations of laws implementing multilateral environmental agreements).*

As nations adopt implementing laws and regulations, attention increasingly turns to the framework for enforcement to ensure that the regulated community (that is the individuals and/or entities whose actions the State seeks to address) complies with the legislative and regulatory framework.

Governments establish enforcement programmes to deter, punish, and redress violations. Deterrence is particularly important. An effective enforcement programme can help to create an atmosphere in which the regulated community is stimulated to comply, because the Government, through its various agencies, has demonstrated a clear willingness and ability to act when non-compliance is detected within the regulated community. Enforcement can be handled in numerous ways, and the Second Chapter of the Guidelines and the corresponding Chapter (II) of this Manual expand upon the details of effective enforcement programmes and frameworks. In particular, Guideline 39 and accompanying discussion focuses on structuring enforcement programmes; Guideline 41(d) and the accompanying text highlights guidance for investigation and prosecution; and Guideline 43 discusses training programs for police, prosecutors, and other enforcement officials.



[39]

[41(d)]

[43]

Economic Instruments to Facilitate Implementation

[23] *Economic instruments: In conformity with their obligations under applicable international agreements, parties can consider use of economic instruments to facilitate efficient implementation of multilateral environmental agreements.*

Economic instruments can be a very effective way of inducing compliance, raising funds for enforcement activities and environmental protection and cutting compliance and enforcement costs.

Economic incentives are basically approaches to environmental management that use market forces, e.g. fees, tradable permits, tax incentives, subsidies, pollution taxes etc. to achieve desired behaviour changes in the regulated community. Guideline 41(g) and the accompanying discussion, expand upon the scope, diversity, and application of economic instruments.



Designate National Focal Points

[24] *National focal points: Parties may identify national authorities as focal points on matters related to specific multilateral environmental agreements and inform the concerned secretariat accordingly.*

Parties to an MEA often designate one or more focal points responsible for the MEA. There are two types of focal points: political focal points and technical focal points. The political focal point is usually responsible for the international processes, such as negotiating MEAs and participating in the Conferences of the Parties. Most States designate their Ministry of Foreign Affairs or a similar body as the political focal point.

The technical focal point often bears the responsibility for implementing the MEA at the national level. Most States designate as their technical focal point the Chief Officer of the nation's Environment Agency or Ministry (i.e. the Administrator, Director General or Honourable Minister of the Federal Environment Protection Agency, or Ministry of Environment). Other government management and scientific authorities or agencies may also serve as focal points for specific purposes under particular agreements.

In some instances, the political and technical focal points are combined, and the (single) national focal point is appointed by the Government to participate in and facilitate the implementation of specific MEA-related activities at the national level. For some treaties, the national focal point is in charge of implementing the State's MEA obligations and is charged with maintaining contact with the MEA Secretariat, attending treaty-related meetings and other administrative tasks. However, in the case of the Ramsar Convention on Wetlands, each State appoints a national focal point to its Scientific and Technical Review Panel. In this case, the Focal Point's duties are a bit different. These duties are highlighted in the case study overleaf. In the case of CITES, there is a Management Authority authorized to communicate with other parties and the Secretariat, as well as a Scientific Authority designated to advise the Management Authority. Thus, a national focal point can have different meanings and duties depending on the MEA.

The respective MEA Secretariats often have produced guidance regarding the terms of reference for the duties that are expected of the focal points. These generic terms of reference can be particularly useful when two (or more) focal points are envisioned for a single MEA. While States may adapt the generic terms of reference to their specific needs, capacity, and circumstances, the MEA-generated terms of reference can be a good starting point.



THE SCIENTIFIC AND TECHNICAL REVIEW PANEL OF THE RAMSAR CONVENTION ON WETLANDS



The Convention's Scientific and Technical Review Panel (STRP) was established through a decision of the Meeting of the Parties to provide scientific and technical advice to the Standing Committee and the Ramsar Bureau, and through them, to the Conference of the Contracting Parties.

Through a subsequent Meeting of the Parties decision, the composition and *modus operandi* of the STRP were modified so that the panel now comprises 13 experts from the six Ramsar regions designated by the COP. The experts provide advice in their personal capacity, not as representatives of their States or Governments. The STRP also has full member representatives of the Convention's International Organisation partners, as well as observers from several expert bodies and other international environmental conventions.

The Meeting of the Parties invited all Contracting Parties to nominate a suitably qualified expert in each State to act as the Focal Point for STRP matters at the national level. Duties of the National Focal Point include:

- Providing input, and support as appropriate, to the implementation of the Work Plan of the STRP.
- Consulting with and seeking input from other experts and bodies in his/her State. The Focal Point is encouraged to use suitable national meetings, newsletters, and e-mail to canvas the views of the expert community, and, when feasible, to organise expert consultations on key issues in the STRP Work Plan.
- Maintaining regular contact, identifying, and undertaking activities of common interest with National Focal Points of the technical and scientific bodies of other relevant conventions.
- Being involved in the monitoring and evaluation of projects funded under the Ramsar Convention.
- Providing advice to, and participating in, meetings of the National Wetland/Ramsar Committee or similar bodies where they exist, and providing advice in the preparation of National Reports.
- Assisting in disseminating information on the work of the STRP in their countries.

The National Focal Points should take an active role in supporting national wetland inventory activities and in supporting the efforts of his/her Contracting Party to implement the *Strategic Framework and Guidelines for the Future Development of the List of Wetlands of International Importance*.

One of the challenges of having separate focal points is maintaining the necessary level of communication between the political and technical focal points. This is essential so that the political focal point does not make commitments that the technical focal point cannot implement, and so that the political focal point can most effectively address national implementation challenges in the relevant international forums such as the Conference of the Parties.

At the same time, depending on the MEA and the particular State, it can be important to maintain two separate and independent focal points: one with technical expertise that has the capacity and mandate to offer the necessary scientific and technical advice, and a political focal point that has the mandate and skills to promote implementation of the agreement within the nation's specific political, social, and cultural contexts. Combining the focal points into a single person or entity can create difficulties if the single focal point does not have both the necessary technical expertise and political sensitivity.



BROADENING THE SUPPORT FOR SEYCHELLES' NATIONAL BIODIVERSITY FOCAL POINT

Given the small population of Seychelles — only 80,000 people — the focal point for CBD and CITES for many years has been one single person, the Director of Conservation. Accordingly, preparation for COPs and SBSTTAs was limited. In order to strengthen Seychelles's position at COP 7 of the CBD, a small working group of five experts from the government and the non-government sector, including the focal point, was formed. Each expert reviewed a particular working document of the conference and identified relevant issues for Seychelles that needed to be pursued at COP7. Thus, the working document on protected areas was reviewed by the Director for National Parks and Forestry, as well as the Director of Conservation and one of the Directors of the Marine Conservation Society of Seychelles. The Botanical Garden reviewed the document on the Global Plant Conservation Strategy. Biodiversity and Tourism was reviewed by the vice chair of the Ecotourism Committee, based at the Ministry of Tourism.

The Seychelles' position was consolidated within the working group after each expert presented its findings. This process has not only assisted the national focal point in preparing Seychelles's position, but it also provided a means for involving many of the main stakeholders, updating the stakeholders on new developments, and build capacity.

For more information, contact Didier Dogley, Director General, Nature & Conservation Division didierd21@hotmail.com or Selby Remie, Director of Conservation chm@seychelles.net



DEVELOPING COUNTRY FOCAL POINTS UNDER THE MONTREAL PROTOCOL: NATIONAL OZONE UNITS

A first step in facilitating implementation of MEAs at the national level is designation of one or more national focal points. First of all, the Government should designate a Ministry, Department, or Agency responsible for the MEA, and within it a focal point who has the responsibility, mandate, and status required to carry out the daily work of implementing the international agreement at the national level. By doing so, the Government demonstrates ownership of the implementation process, which is instrumental in ensuring success of the MEA.

The Parties to the Montreal Protocol established the Multilateral Fund to provide financial and technical cooperation to enable developing countries that operate under Article 5 of the Protocol to comply with the control measures of the treaty. In addition to meeting their agreed incremental costs and providing a clearinghouse function, the Fund provides developing countries with financing and assistance for the establishment and operation of a dedicated national focal point for this MEA, which is known as the National Ozone Unit (NOU).

The NOU is responsible for managing and monitoring the national strategy for phasing out ozone-depleting substances (ODS) as specified in the Country Programme to comply with the Montreal Protocol. [See corresponding case study under Guideline 14(b).] The NOU is also responsible for reporting data and undertaking awareness raising activities. NOUs are established and supported through Institutional Strengthening projects under the Multilateral Fund. The NOU is the main national focal point for this MEA and is the primary channel through which international ozone protection assistance flows to stakeholders in the State.

NOUs are linked to each other through a unique capacity-building mechanism under the Multilateral Fund known as "Regional Networking of ODS Officers" [See corresponding case study under Guideline 34(c), below.]

For more information,
see <http://www.unep.fr/ozonaction> or contact ozonaction@unep.fr



[14(b)]
[34(c)]



COORDINATION OF MEA FOCAL POINTS AND INSTITUTIONS IN THE REPUBLIC OF CONGO

In the Republic of Congo (Brazzaville), MEA Focal Points are located in different Ministries. These include the Ministries of Forests, Environment, and Agriculture, among other Ministries. Where a specific focal point is located depends on the particular MEA and the competence of the respective Ministries.

In 1982, the Government established a High Environment Council as the key consultative and deliberative body. It is supported by thematic groups which deal with technical aspects. It should coordinate all activities needing decisions. Unfortunately, it has held only one session (in 1985). Since the Council is composed of Ministers, it is challenging to schedule regular sessions.

Accordingly, a National Committee on Sustainable Development has been proposed; the enabling legislation has been submitted to the Government Secretariat for approval. It would be composed of representatives of Ministries, NGOs, unions, etc., and it would play a coordinating role.

Despite these challenges, the Government has established specific committees for many MEAs. These committees bring together the relevant Government agencies and allow for coordination on the particular MEA. In general, committees have been established for those MEAs which generate implementing projects.

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CH I - D



ENUMERATION OF FUNCTIONS FOR MANAGEMENT AND SCIENTIFIC AUTHORITIES UNDER CITES

Under CITES, Parties must designate national authorities, rather than "focal points." In particular, Parties must designate a management authority and a scientific authority. The specific functions of the management and scientific authorities are spelled out in three documents:

- Role and Functions of the CITES Scientific Authorities
- Designation and Role of the Scientific Authorities, Resolution Conf. 10.3, available at <http://www.cites.org/eng/res/all/10/E10-03.pdf>
- Article 8 of the CITES Model Law on International Trade in Wild Fauna and Flora (spelling out the responsibilities of the CITES Management Authority)

The National Legislation Project established by the CITES Conference of the Parties in 1992 looks at the legislative designation of both a Management Authority and a Scientific Authority responsible for the implementation of CITES (in accordance with Article IX, paragraph 1 of the Convention). This is different from the simple

Enumeration of Functions for Management and Scientific Authorities under CITES (cont'd)

administrative decision communicated by the Parties when they deposit their instruments of ratification, acceptance, approval or accession in pursuance of Article IX, paragraph 2.

This analysis considers the legal instrument (law, regulation, and/or decree) that authorises designation of both CITES authorities or expressly designates those authorities. For example, the legislation of some Parties makes no provision for the designation of a Scientific Authority, but this is done instead through subsidiary legislation. The analysis further considers whether legislation clearly and precisely gives the CITES authorities the necessary powers to carry out their responsibilities (e.g., power to grant permits and certificates, power to establish export quotas, etc.), separates the functions of each authority, and provides mechanisms for coordination and communication between these bodies, as well as with other government agencies with relevant competence (e.g., Customs, police, ministry responsible for foreign trade, etc.).

For more information, see <http://www.cites.org/> or contact cites@unep.ch



FOCAL POINTS FOR MEAs

Many MEA Secretariats use the Internet to disseminate information on MEA focal points. This can facilitate and expedite communication among MEA focal points. In addition to the examples below, focal points for other MEAs can usually be found on the web page of the respective MEA Secretariat:

- Basel Convention Focal Points <http://www.basel.int/fp.html>
- CBD Focal Points <http://www.biodiv.org/world/map.asp> (the CBD Clearinghouse Mechanism (CHM) Focal Points are found at <http://www.biodiv.org/chm/stats.asp>)
- CITES Focal Points http://www.cites.org/common/directy/e_directy.html
- Montreal Protocol Focal Points http://www.unep.org/ozone/Information_for_the_Parties/3C_focal%20points.asp (National Ozone Unit contacts are found at <http://www.unep.fr/ozonaction>)
- Focal Points for the Stockholm Convention on Persistent Organic Pollutants (POPs) <http://www.pops.int/documents/focalpoints/>
- UNCCD Focal Points <http://www.unccd.int/focalpoints/focalpoints.php>
- IMO Focal Points <http://www.imo.org> (click on "Contact Us"; then click on "National Contacts")
- UNFCCC Focal Points <http://unfccc.int/resource/nfp.html>

CHECKLIST FOR FOCAL POINTS

To enhance the effectiveness of its political and technical focal points in negotiating and implementing MEAs, a State can:

- Clearly designate** the principal political and technical focal points.
- Ensure that the focal points have sufficient **funding and personnel**.
- Provide the political and technical focal points with **clear mandates**.
- Ensure **regular communication and coordination** between the political and technical focal points. This is particularly important when the political focal point is negotiating an MEA, and the technical focal point is responsible for implementing that MEA. Such communication can help the political focal point know what is necessary, feasible, or problematic from the practical standpoint of implementation. Measures to promote such coordination include:
 - Clear procedures requiring the political focal point to notify the relevant institutions and individuals responsible for implementing MEAs.
 - Involvement of the technical focal point in negotiating, concluding, and ratifying MEAs (as appropriate).
 - Procedures designed to prevent a political focal point from communicating final acceptance or ratification of an MEA before implementing legislation and institutional frameworks have been established.
- Ensure regular communication and coordination between focal points for the MEA in question and related MEAs, in order to prevent a State presenting conflicting or contradictory positions in different fora.

This Checklist builds upon a similar checklist in the 1999 CARICOM Guidelines for MEA Implementation.

Coordinating and Strengthening National Institutions

[25] *National coordination: Coordination among departments and agencies at different levels of government, as appropriate, can be undertaken when preparing and implementing national plans and programmes for implementation of multilateral environmental agreements.*

[26] *Efficacy of national institutions: The institutions concerned with implementation of multilateral environmental agreements can be established or strengthened appropriately in order to increase their capacity for enhancing compliance. This can be done by strengthening enabling laws and regulations, information and communication networks, technical skills and scientific facilities.*

The efficiency of the government agencies, ministries, and departments responsible for implementing an MEA is an absolutely vital element to a State's compliance. States should ensure that all such government bodies have sufficient capacity and authority to implement the relevant provisions through such measures as strengthening the laws that provide these bodies' authority and improving their technical capacity. Because implementation is often the responsibility of more than one government body, improving cooperation and coordination among all relevant agencies and departments should be made a priority. Sometimes a large number of government agencies at various levels share responsibility for implementing the same MEA's terms. Identifying all such bodies with authority, responsibility, or expertise relevant to the MEA's subject is the first step in ensuring the necessary coordination.

Coordination of governmental agencies and enhancing the efficacy of institutions are addressed in further detail in Guidelines 42(a) and 41, respectively, and the accompanying discussion below. In addition Guideline 10(d) and accompanying text addresses coordination in the development of MEAs.



[10(d)]

[41]

[42(a)]

Involve Stakeholders, Local Communities, Women, and Youth

- [27]** *Major stakeholders: Major stakeholders including private sector, non-governmental organizations, etc., can be consulted when developing national implementation plans, in the definition of environmental priorities, disseminating information and specialized knowledge and monitoring. Cooperation of the major stakeholders might be needed for enhancing capacity for compliance through information, training and technical assistance.*
- [28]** *Local communities: As appropriate, parties can promote dialogue with local communities about the implementation of environmental obligations in order to ensure compliance in conformity with the purpose of an agreement. This may help develop local capacity and assess the impact of measures under multilateral environmental agreements, including environmental effects on local communities.*
- [29]** *Women and youth: The key role of women and youth and their organizations in sustainable development can be recognized in national plans and programmes for implementing multilateral environmental agreements.*

Local communities, business and industry, citizens groups, and NGOs can all play an important role in promoting the implementation of an MEA and they often have expertise that will enhance the capacity of a State to meet its obligations (such as the ability to offer training or technical assistance). States that consult and otherwise involve these “stakeholders” in implementation efforts have access to a greater range of resources for promoting compliance.

The discussion of Guidelines 41(c), 41(i)-(k) and 44, examines in detail aspects of stakeholder and community involvement in implementing environmental laws, policies, programmes, and plans.



- [41(c)]**
[41(i-k)]
[44]
[44(e)]
- Women and youth must be involved in the decision making processes that affect the environment and natural resources; particularly because of the role of women as “managers” of these resources in their day-to-day activities. UNEP is committed to increasing the involvement of women in providing leadership in caring for the environment.

The discussion of Guideline 44(e), addresses in more detail measures to empower and involve women and youth.

Utilise Media Tools and Improve Public Awareness

[30] *Media: The national media including newspapers, journals, radio, television and the Internet as well as traditional channels of communication, could disseminate information about multilateral environmental agreements, the obligations in them, and measures that could be taken by organizations, associations and individuals. Information could be conveyed about the measures that other parties, particularly those in their respective regions, might have taken to implement multilateral environmental agreements.*

[31] *Public awareness: To promote compliance, parties could support efforts to foster public awareness about the rights and obligations under each agreement and create awareness about the measures needed for their implementation, indicating the potential role of the public in the performance of a multilateral environmental agreement.*

One of the most effective tools in promoting compliance is public awareness, particularly through the news media. In an increasingly globalised economy, information is one of the most important tools that states, organizations, and individuals can employ to effect change, particularly where individual purchasing and life-style decisions can drive illegal markets or shape legal markets. Accordingly, public awareness can be important for everything from trade in protected species to ozone-depleting substances, to life-style decisions with implications for climate change, to planning decisions affecting wetlands and habitats for migratory species.

A variety of MEAs have relied on education and publicity to promote compliance. For example, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) has had success in improving compliance through public awareness. Publicity and education have helped to increase public awareness and thereby decrease the demand for commercial trade in species that are threatened with extinction. Public awareness about such wildlife species assists CITES compliance and enforcement efforts in diminishing the demand for those species. The success in reducing illegal trade in ivory serves as one example of the effectiveness of education and publicity in decreasing the demand for an illegally acquired wildlife product.

Education programmes are important in addressing shaping the decisions of individual and institutional consumers. Such programmes can help consumers to understand the environmental and social implications of their decisions to buy a particular product, live in a particular place, or utilise certain services. Educational and public awareness programmes, which are discussed more in Guideline 44, include education about the effects of the particular decisions as well as available alternatives. For example, in the context of CITES, this would include information on the impacts of using products from species that are threatened with extinction (such as certain traditional medicines) as well as indicating the availability of specific alternatives that do not threaten the future of those species (such as other medicines that are derived from species that are not threatened with extinction, commonplace substances, or syn-



thetic medicines). Many organisations and the CITES Secretariat have engaged in publicity and education campaigns.

In addition to affirmative education programmes, negative publicity can also affect the actions of private and public actors. At the national and international levels, negative publicity regarding non-compliance, ineffective implementation, or corruption may affect the ability of the State to attract investment, access funding for projects, engage in diplomacy, and negotiate with other States. Negative publicity about private individuals or institutions can significantly affect their activities, as such publicity can affect their reputation with regulators, customers, and the general public, affecting both their ability to conduct business and their earnings.

As noted, information-based approaches such as public awareness and education can be an effective complement to regulatory approaches. For example, highlighting a particular instance of non-compliance by a party not only applies pressure to that party to come into compliance, but it also serves as a warning to other parties to come into compliance or to take actions to stay in compliance. Thus, awareness and the media can be important tools to promote compliance at the international level, as well as at the national level (which is discussed at length in Guideline 44).



- [34(a)]
- [41(a)(iv)]
- [41(m)]
- [43]
- [44]

Guideline 44, focuses on public awareness and education at the national and local levels and includes a more extensive treatment of the topic. Additional relevant material may be found following Guidelines 34(a) (especially the case study on “NGOs Providing News Relating to MEA Implementation”), 41(a, iv), 41(m), and 43.

Improve Access to Administrative and Judicial Proceedings

[32] *Access to administrative and judicial proceedings: Rights of access to administrative and judicial proceedings according to the respective national legal frameworks could support implementation and compliance with international obligations.*

Empowering the public to support implementation efforts through improving access to administrative and judicial proceedings is strongly encouraged. Through improved access, individuals and non-governmental organizations (NGOs) can serve as watchdogs and enforcement partners to the government, identifying and addressing cases of non-compliance.

Promoting legal frameworks for access to justice, including the expansion of legal standing provisions to include NGOs and the public, is one way of improving access to judicial proceedings (see below for an explanation of “standing”). Providing a guaranteed independent judicial mechanism for reviewing instances of alleged environmental non-compliance by businesses, government bodies, and other actors can be an effective means of promoting compliance and deterring non-compliance.

Access to administrative and judicial proceedings is closely related to access to information (including work with the media and public awareness raising, but also providing for more formal mechanisms for the public to obtain information). It is also closely related to public participation by all stakeholders. As such, access to information, public participation, and access to justice are frequently grouped together as key elements of effective environmental governance. This grouping is manifested in Principle 10 of the Rio Declaration on Environment and Development, the Aarhus Convention (which applies to the UNECE region), and other international instruments. Similarly, the Guidelines group the themes in Guidelines 27-32 (in the Compliance Chapter) and Guidelines 41(i)-(k) (in the Enforcement Chapter).

Guideline 41(i) and the accompanying discussion, below, examine standing and access to justice broadly in more detail. Additional discussion and examples relating to judicial matters may be found following Guidelines 41(a, v), 41(c, vi), 41(o), 43(c), 43(d), 46, and 47.



[27-32]
[41(a)(v)]
[41(c)(vi)]
[41(i-k)]
[41(o)]
[43(d)]
[46]
[47]

Capacity Building and Technology Transfer

[33] *The building and strengthening of capacities may be needed for developing countries that are parties to a multilateral environmental agreement, particularly the least developed countries, as well as parties with economies in transition to assist such countries in meeting their obligations under a multilateral environmental agreements. In this regard:*

- (a) Financial and technical assistance can be provided for building and strengthening organizational and institutional capacities for managing the environment with a view to carrying forward the implementation of multilateral environmental agreements;*
- (b) Capacity-building and technology transfer should be consistent with the needs, strategies and priorities of the State concerned and can build upon similar activities already undertaken by national institutions or with support from multilateral or bilateral organizations;*
- (c) Participation of a wide range of stakeholders can be promoted, taking into consideration the need for developing institutional strengths and decision-making capabilities and upgrading the technical skills of parties for enhancing compliance and meeting their training and material requirements;*
- (d) Various funding sources could be mobilized to finance capacity-building activities aimed at enhancing compliance with multilateral environmental agreements, including funding that may be available from the Global Environment Facility, in accordance with the Global Environment Facility mandate, and multilateral development banks, special funds attached to multilateral environmental agreements or bilateral, intergovernmental or private funding;*
- (e) Where appropriate, capacity-building and technology transfer activities and initiatives could be undertaken at regional and subregional levels;*
- (f) Parties to multilateral environmental agreements could consider requesting their respective secretariats to coordinate their capacity-building and technology transfer initiatives or undertake joint activities where there are cross-cutting issues for cost-effectiveness and to avoid duplication of efforts.*

Developing countries and countries with economies in transition face special challenges in meeting their obligations under MEAs. Even with the best intentions, these countries can still fall short of full compliance and enforcement, due to insufficient financial resources, lack of scientific or technical knowledge, an underdeveloped legal and enforcement infrastructure and related problems.

Capacity building and technology transfer are critical tools without which developing countries and transitional economies will remain disadvantaged and unable to reap the environmental, social and economic benefits offered by full compliance with MEAs.

Many declarations and policy statements underline the importance of capacity building and technology transfer, such as Agenda 21 and the 2002 WSSD Plan of Implementation. More specifically, many MEAs expressly provide for capacity building and technology transfer efforts to improve compliance, taking into account the special situations of developing countries, and countries with economies in transition including Small Island Developing States (SIDS). Examples include the Convention on Biological Diversity (Article 12), the United Nations Convention to Combat Desertification (Article 19), the Montreal Protocol on Substances that Deplete the Ozone Layer (Article 10A and B), and the UN Convention to Combat Desertification (Article 18). The Convention on Biological Diversity has a number of relevant provisions: Article 12 (research and training), Article 16 (access to and transfer of technology), and Article 19 (handling of biotechnology and distribution of its benefits).

Capacity building assistance has been made available to countries by a number of major international organisations including UNEP, UNDP, UNIDO, the World Bank, FAO, UNICEF, and others. Lately, many non-governmental bodies and some advanced countries are beginning to be active in this sphere. A good example of this is the myriad of “Type II partnerships” launched at the World Summit on Sustainable Development in 2002. These partnerships provide an opportunity for international organisations, NGOs, developed and developing countries to all work together to identify the specific needs of developing countries regarding particular environmental problems and to develop programmes and initiatives to address these problems.

Guidelines 34(b) and 43, and accompanying analysis, provide additional examples and detail on capacity building. For information on training and capacity building for MEA negotiators, see Guidelines 10 and 11. Following Guidelines 18 and 19, there is a case study on “Assistance to New Parties to the Ramsar Convention” that highlights capacity building; see also the case study on “Implementing the Clean Development Mechanism (CDM) in Morocco” following Guideline 21.





BALI STRATEGIC PLAN FOR TECHNOLOGY SUPPORT AND CAPACITY-BUILDING

The Bali Strategic Plan for Technology Support and Capacity-building was approved by the 23rd session of UNEP Governing Council in February 2005. The Plan was first adopted by the High-level Open-ended Intergovernmental Working Group on an Intergovernmental Strategic Plan for Technology Support and Capacity-building at its third session, in Bali, Indonesia, in December 2004.

The Bali Strategic Plan constitutes an intergovernmentally agreed approach to strengthen technology support and capacity building in developing countries, as well as countries with economies in transition. It seeks to strengthen the capacity of Governments of developing countries and of countries with economies in transition at all levels and provide systematic, targeted, long- and short-term measures for technology support and capacity building. Another objective of the Plan is to promote, facilitate, and finance access to and support for environmentally sound technologies and corresponding know-how.

The Plan also aims to enhance delivery by UNEP of technology support and capacity building based on best practices from both within and outside UNEP. In particular, the Plan seeks improving coordination of disparate efforts to strengthen capacity by various multilateral and bilateral institutions. It does so by providing a framework for strengthening cooperation among UNEP, multilateral environmental agreements (MEAs), and other bodies engaged in environmental capacity building, including the UN Development Programme (UNDP), the Global Environment Facility (GEF), civil society, and other relevant stakeholders. Thus, for example, UNEP and UNDP signed a Memorandum of Understanding at the end of 2004 to improve cooperation in environmental capacity development and to ensure that environmental considerations are incorporated in the mainstream of sustainable development policies and activities. The Plan seeks to enable collaboration with all relevant stakeholders and provide a basis for a comprehensive approach to developing partnerships, including public-private partnerships. It emphasises the identification and dissemination of best practices and fostering of entrepreneurship and partnerships.

With respect to implementation of the Bali Strategic Plan, the Plan states that a bottom-up approach in identifying specific objectives, strategies, and activities will be used to reflect the needs of countries and regions. This bottom-up approach reflects the views and priorities expressed by Governments, while also considering views of relevant organisations and stakeholders. This approach also supports another tenet of the Bali Strategic Plan: the importance of national ownership of capacity building and technology support initiatives. Another important theme of the Plan is fostering South-South cooperation bilaterally, regionally, and globally as a mean to maximize and develop existing capacities in developing countries.

The Plan is relatively brief (it is nine pages long); in contrast, for example, Agenda 21 (the so-called "Blueprint for Sustainable Development") was hundreds of pages long.

Bali Strategic Plan for Technology Support and Capacity-building (cont'd)

The nine-page Plan includes sections on objectives, strategic considerations, implementation, coordination mechanisms, and financial mechanisms.

In order to ensure that the implementation of the Plan reflects the specific needs of developing countries and countries with economies in transition, UNEP has undertaken a series of regional and subregional consultations to identify priorities and opportunities for technology support and capacity building. UNEP is also assisting countries to transform their sectoral needs assessments into a holistic identification of priorities through the development of National Capacity Building and Technology Support (NCBTS) Plans, which will provide a common blueprint or platform for interventions by all local and international actors. The NCBTS Plans also aim to enhance country-ownership of the capacity-building and technology-support and to enhance public participation in environmental decisionmaking and implementation. They will build upon existing assessments such as the GEF National Capacity Self-Assessment (for the Rio MEAs), National Environment Action Plans, Poverty Reduction Strategies, as well as the Poverty and Environment Initiative.

In support of the implementation of the Bali Strategic Plan, UNEP has developed an inventory of its capacity building and technology activities across all UNEP Divisions, including those undertaken directly by its Regional Offices. The database is arranged by category (according to the 13 cross-cutting issues and 19 thematic areas identified in the Bali Strategic Plan), by geographical focus (region and State), by type of capacity building (Systemic, Institutional, Individual), etc. UNEP will launch an online public access version, and a government portal will enable designated Governments to submit official requests for assistance to relevant UNEP Divisions. The database will also help UNEP to report on its activities related to State requests and its implementation of the Bali Strategic Plan.

The Bali Strategic Plan is available at <http://www.unep.org/GC/GC23/documents/GC23-6-add-1.pdf>

For more information, see <http://www.unep.org/depi/> or contact depiinfo@unep.org



CAPACITY BUILDING THROUGH UNEP'S REGIONAL OFFICES

In addition to the recent adoption and implementation of the Bali Strategic Plan (see case study above), UNEP has undertaken a significant number of capacity building efforts at the national, regional, and global levels on a wide range of environmental topics. Some of these courses have been conducted by UNEP at its Nairobi headquarters, and many of the activities have been done at the national, sub-regional, and regional levels by UNEP's regional offices.

As an illustration, the UNEP Regional Office for Asia and the Pacific (ROAP) expects to undertake the following capacity building courses in 2006:

- 2nd Regional Training Programme in Environmental Law
- Regional Seminar on Revival of Customary Environmental Law and Ethics (Hue, Vietnam)
- Central Asian Judges Conference (Almaty, Kazakhstan)
- South Asian Environmental Law Workshop
- National Workshop on Environmental Law for Parliamentarians (Phnom Penh, Cambodia)
- Training Workshop in Environmental Compliance and Audit (Cebu, Philippines)
- Needs Assessment and Launching the National Task Force for Environmental Law (Ulaanbaatar, Mongolia)
- National Workshop on Compliance of Environmental Law (Vientiane, Lao PDR)

As the titles suggest, these events seek to strengthen capacity of environmental lawyers, judges, parliamentarians, regulators, auditors, and other professionals.

For information on capacity building initiatives in the various regions, contact the respective regional offices:

Regional Office for Africa (ROA): sekou.toure@unep.org

Regional Office for Asia and the Pacific (ROAP): asvathitanonta@unep.org

Regional Office for Europe (ROE): frits.schlingemann@unep.ch

Regional Office for Latin America and the Caribbean (ROLAC):

ricardo.sanchez@rolac.unep.mx

Regional Office for North America (RONA): brennan.vandyke@rona.unep.org

Regional Office for West Asia (ROWA): uneprowa@unep.org



APPROACHES FOR FINANCIAL AND TECHNICAL ASSISTANCE TO FACILITATE IMPLEMENTATION OF THE OZONE MEAs

The Ozone MEAs – and particularly the Montreal Protocol and its Multilateral Fund – have emphasised the capacity building and technical and financial assistance as essential to their successful implementation. These include a wide range of approaches, including networking to facilitate information exchange and institutional support to financial and technical assistance. Some of these are summarized below. [For information on networking aspects, see case study on “Regional Networks and South-South Cooperation to Assist Countries in Complying with the Montreal Protocol” following Guideline 34(c).]

Innovative Financing

“Mainstreaming Developing Countries: Innovative Assistance to Protect the Ozone Layer, the Finish Trust Fund under the Montreal Protocol” describes the Finnish Trust Fund, an innovative mechanism established in 1991 under the Ministry for Foreign Affairs of Finland to assist non-Party developing countries. This Trust Fund provides assistance through Country Specific Studies, training, and networking and information exchange to facilitate and expedite the States joining the Montreal Protocol. This programme is above-and-beyond Finland’s contribution to the Multilateral Fund and is conducted through a cooperative arrangement with UNEP DTIE’s OzonAction Programme. This publication is available at <http://www.unep.fr/ozonaction/library/mmcfiles/3914-e.pdf>

Technology Transfer

The Multilateral Fund has emphasised technology transfer through a variety of projects. “Louder Lessons in Technology Transfer: Lessons Learned and Case Studies” (2000) summarizes some of the lessons learned from successful projects in the Asia and Pacific region. It illustrates some of the experiences gained from transferring non-ODS technology. These lessons learned may also provide guidance for the technology transfer under other MEAs. This publication is available at <http://www.unep.fr/ozonaction/library/mmcfiles/3434-e.pdf>. A similar publication of case studies on technology transfer for ODS phase out in African States, South African Regional Training Workshop on Lessons Learned from Technology Transfer under the Multilateral Fund of the Montreal Protocol, is available at http://www.unep.fr/ozonaction/library/mmc/lib_details.asp?r=3921

Concessional Lending

In 2002, the OzonAction Programme of UNEP/DTIE convened an international workshop to exchange views on the objectives and modalities of concessional lending under the Montreal Protocol and to review the experiences in innovative financing related to the implementation of the Protocol. The proceedings from this workshop are available in English at <http://www.unep.fr/ozonaction/library/mmcfiles/4028-e.pdf>; and a Spanish translation is available at <http://www.unep.fr/ozonaction/library/mmcfiles/4028-s.pdf>

Approaches for Financial and Technical Assistance to Facilitate Implementation of the Ozone MEAs (cont'd)

Other publications on technology transfer of ODS-related technologies that can be obtained from DTIE include:

- *Floriculture and the Environment: Growing Flowers without Methyl Bromide* (2001) (describing integrated pest management, steam sterilisation, composting, soil-less substrates; also detailing demonstration projects)
- *Standards and Codes of Practice to Eliminate Dependency on Halons: Handbook of Good Practices in the Halon Sector* (2001)
- *Inventory of Technical and Institutions Resources for Promoting Methyl Bromide Alternatives* (1999)
- A six-volume Sourcebook series that assists countries with identifying and selecting appropriate technical options (e.g., for *Alternatives to Methyl Bromide* (2001), *Flexible and Rigid Foams Bromide* (1996), *Specialized Solvent Uses* (1996))

For more information, see <http://www.unep.fr/ozonaction> or contact ozonaction@unep.fr



TECHNOLOGY TRANSFER TO BUILD CAPACITY AND IMPLEMENT CLIMATE MEAs IN GEORGIA

At UNFCCC COP-4 in 1998, the Georgian delegation submitted a proposal for amendments to the technology transfer decisions for non-Annex I countries with regard the funding of the development of indigenous know-how.

Technical assistance programs were quite effective at the initial stages of national capacity building and strengthening. In addition to reducing and removing financial and institutional barriers, Georgia is developing pilot projects that entail technical assistance and technology transfer.

In this process, Georgia is emphasising the role of the private sector as the primary actor in technology transfer. From the beginning, representatives from the private sector (such as Ltd "Geothermia", SHPP owners, Ltd "Mze"-Solar energy) have been drawn to the process; they are largely interested in new technologies although they are also interested in improving managerial capacity. [However, industrial businesses with a huge potential to improve energy efficiency are often less interested in climate friendly technology transfer, due in part to the requested energy audit.]

The UNDP/GEF-KfW project "Georgia – Promoting the Use of Renewable Energy Resources for Local Energy Supply" was endorsed on 11 February 2004. The project

Technology Transfer to Build Capacity and Implement Climate MEAs in Georgia (cont'd)

seeks to remove the key barriers to the increased utilisation of renewable energy for local energy supplies. The project emphasises the leveraging of financial resources to capitalise a proposed Renewable Energy Revolving Fund (see "Georgia's Renewable Energy Revolving Fund" following Guideline 41(g)) to sustain its operations and to enhance its possibilities to support renewable energy investments.

Moreover, the project foresees the transfer of relevant technology to facilitate rehabilitation of small hydropower plants and a geothermal water supply system, among other activities.



[41(g)]

For more information, contact Mrs. Nino Gokhelašvili at gmep@access.sanet.ge



FINANCIAL ASSISTANCE TO IMPLEMENT THE CARTAGENA PROTOCOL ON BIOSAFETY

Article 28 of the Cartagena Protocol on Biosafety provides the same financial mechanism for the Protocol as for the Convention on Biological Diversity itself, namely the Global Environment Facility (GEF). The GEF assists developing countries to meet the full incremental costs to them of implementing the measures necessary to fulfill their obligations under the Protocol. Decisions of the Meeting of the Parties provide guidance for the Financial Mechanism. In 2001, the GEF and UNEP initiated a capacity building strategy for States Parties to the Protocol, through a UNEP-GEF project on Development of National Biosafety Frameworks (NBFs). The objective of these frameworks is to prepare Parties to meet their obligations under the Protocol. The project is currently assisting over 120 Parties.

In addition to this, the GEF is financing 12 demonstration projects to support countries in implementing the NBFs, as well as providing assistance for capacity building for participation in the Biosafety Clearing House.

For more information, contact secretariat@biodiv.org



IMPROVING REGIONAL COOPERATION IN ADDRESSING AIR POLLUTION THROUGH TECHNOLOGY TRANSFER AND CAPACITY BUILDING

In the UN Economic Commission for Europe (UNECE) region, technology transfer and capacity building have been integral to the successful regional cooperation in addressing air pollution, in particular within the framework of UNECE Convention on Long-Range Transboundary Air Pollution. As of March 2006, this Convention has 50 Parties from a region with 55 States, but new parties to the Convention still need assistance in implementation. Moreover, assistance is necessary to enable more States to ratify and implement the convention and its protocols. In these regards, Central Asia remains an area of focus, particularly as it is a link between Europe and East Asia. Kazakhstan and Kyrgyzstan both ratified the convention in 2000, but they have yet to accede to any of the Convention's protocols.

The UN Development Account (UNDA) is financing a project to strengthen the capacity of air quality management institutions in Central Asia to implement the LRTAP and its protocols. It will involve technical, policy, legal, economic and institutional analysis and reforms of air quality management in Central Asia, development of sub-regional capacity in air quality management and development of air monitoring in Central Asia as a link between monitoring systems in Europe and Asia. It will facilitate sub-regional networking and information dissemination through an Internet/intranet system and promote the introduction of low-cost, fast payback methods for improving the energy efficiency and environmental performance of solid fuel combustion technologies for heat and power generation. It will provide assistance with sustainable energy policy and energy pricing reforms and explore investment project finance for clean coal technology deployment.

For more information, see <http://www.unece.org/env/lrtap/welcome.html>



FINANCIAL MECHANISMS FOR IMPLEMENTING THE RAMSAR CONVENTION

To assist Parties in implementing the Ramsar Convention on Wetlands of International Importance, three targeted funding mechanisms have been established: (1) a Small Grants Fund for Wetland Conservation and Wise Use (a global program), (2) Wetlands for the Future (a program for Latin America and the Caribbean), and (3) the Swiss Grant



Wetlands.

Financial Mechanisms for Implementing the Ramsar Convention (cont'd)

Fund for Africa. These are discussed below. In addition, private sources, bilateral donors, and NGOs frequently provide financial resources to protect and manage wetlands.

Small Grants Fund for Wetland Conservation and Wise Use

The Small Grants Fund for Wetland Conservation and Wise Use (SGF) was established by the 1990 COP (at that time under the name "Wetland Conservation Fund"). The SGF provides financial assistance in the form of small grants (a maximum Swiss Francs 40,000, or approximately US\$30,000, per project) for projects in developing countries and countries with economies in transition. At present, funding is provided for activities related to the implementation of the Convention's Strategic Plan 2003-2008, including requests for emergency assistance.

So far, around 200 projects have been funded in approximately 90 States, for a total of more than 6 million Swiss francs (more than US\$4.5 million).

The Fund relies entirely upon voluntary contributions for its operations. In recent years, voluntary financial contributions have been made to the SGF by the Governments of Austria, Belgium, Denmark, France, Germany, Iceland, Ireland, Japan, Monaco, the Netherlands, Spain, Sweden, the UK, and the USA, as well as from WWF International. In addition, some projects submitted to the Ramsar Small Grants Fund have been taken over for direct funding support by such organizations as Wetlands International, as part of its agreement with the Netherlands Ministry of Foreign Affairs (DGIS), and WWF's Living Waters Programme.

Normally, completed applications in English, French or Spanish must be received by the Ramsar Secretariat by 31 March of each year, but Secretariat staff can advise on project proposal submissions prior to that date. Emergency assistance may be requested at any time. Applications have to be endorsed by the Administrative Authority of the Convention in each State. After an evaluation carried out by the technical staff of the Ramsar Secretariat, and with advice from members of the Scientific and Technical Review Panel, partner organizations, and individual experts as required, recommendations for approval are submitted for consideration by the Standing Committee at its annual meeting.

The Small Grants Fund Operational Guidelines and application form can be obtained in English, French, and Spanish from the Ramsar Secretariat or on the Ramsar Web site http://ramsar.org/key_sgf_index.htm

Wetlands for the Future

Since 1995, the Ramsar Secretariat, the United States Department of State, and the United States Fish and Wildlife Service (USFWS) have operated the Wetlands for the Future Fund (WFF). WFF is a training programme that is designed to benefit Latin American and Caribbean institutions and individuals through capacity building and

Financial Mechanisms for Implementing the Ramsar Convention (cont'd)

training in the conservation and wise use of wetlands. This initiative promotes the implementation of the concept of “wise use” of wetlands through strengthening the capacity of States to manage their wetland resources in perpetuity. The initiative also contributes to the integration of wetland conservation and management with development processes. In order to access WFF funds, proposed activities must be consistent with the principles, recommendations, and guidelines of the Ramsar Convention. Following proposal evaluation by Ramsar Secretariat staff, projects are chosen by the Secretariat and USFWS jointly and administered by the Secretariat. The WFF sponsors seek to establish partnerships with training institutions, catalyze wetland training activities currently underway or planned within the region, and complement existing training and education initiatives with wetland-related instruction. The maximum amount that can be awarded to each project is US\$20,000.

For more information on Wetlands for the Future, see

http://ramsar.org/key_wff_index.htm

Swiss Grant Fund for Africa

The Swiss Grant Fund for Africa administered by the Ramsar Secretariat is a generous contribution offered by the Federal Government of Switzerland over and above the annual dues provided to the Convention's core budget. The Swiss Grant supports wetland conservation and wise use and the implementation of the Ramsar Convention in Africa. This annual contribution started in 1989, following the establishment of the Convention Secretariat in Switzerland in 1988.

The Swiss Grant is particularly useful in financing emergency actions or specific activities in needy areas of wetland conservation, rehabilitation, and wise use. This contribution is also helpful in promoting the Convention in the region, by providing assistance to States to formulate their national wetland policies, undertake wetland inventories, organize Parliamentary meetings, etc. Projects linking the improvement of livelihoods with wetland management are encouraged.

Since the beginning of the programme, the average annual contribution has been CHF140,000 (approx. US\$106,000), which is distributed among three to six projects per year, although up to CHF160,000 (US\$121,000) may be granted each year. The deadline for submitting project proposals is Nov. 31 every year.

For more information, see http://www.ramsar.org/swiss/key_swiss_index.htm or contact the Ramsar Secretariat at africa@ramsar.org



TECHNOLOGY TRANSFER ACTIVITIES THROUGH BASEL CONVENTION REGIONAL CENTRES

The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal is built on two fundamental pillars:

- The control of the transboundary movement of hazardous and other wastes; and
- The environmentally sound management (ESM) of hazardous and other wastes.

In order to minimise, manage or dispose of hazardous and other wastes in an environmentally sound manner, national and regional waste management capability and capacity is essential.

As outlined in the case study on “The Basel Convention Regional Centres” (following Guideline 49(d)), the Parties to the Basel Convention have established Basel Convention Regional Centres (BCRCs) for Training and Technology Transfer in 14 States, including two regional coordinating centres.



These Centres assist States served by the respective centres (as well as interested organisations, private companies, industry associations, and other stakeholders) to implement and enforce the Basel Convention, its amendments and protocols. In this capacity, the Regional Centres provide guidance on technical and technological issues, encourage the introduction of cleaner production technologies, and promote the use of environmentally sound waste management practices.

The following three examples provide illustrations of how these Regional Centres facilitate technology transfer in the context of the Basel Convention:

- a) In cooperation with the Secretariat of the Basel Convention and national Focal Points of the Basel Convention in the region, the Cairo BCRC is implementing a project to **prepare a set of tools for the selection, design and operation of hazardous waste landfills in hyper-dry areas**. This project seeks to develop standards and codes for landfills for hazardous wastes and other wastes in hyper-dry areas. It is expected that this project will significantly contribute to the adoption of state-of-the-art technologies that are appropriate to the specific climatic conditions of the region. The project is meant to promote and facilitate technology transfer and technology development to improve the environmentally sound management of hazardous and other wastes within the broader context of implementing the Basel Convention in the region.
- b) The BCRC in Trinidad and Tobago is implementing a project to **assess the environmentally sound management of used oil in the Caribbean**. This project seeks to assess existing management measures for used oil in the Caribbean – including legislation, financial and economic incentives, and technological options – in order to facilitate the development of national programmes for environmentally sound and economically viable collection and recycling/recovery systems for used oil in the region.
- c) The El Salvador BCRC is coordinating a project a public-private partnership Technology Transfer Activities through Basel Convention Regional Centres that seeks to define and agree on a **regional mechanism for the environmentally sound management of used lead acid batteries** in Central American

Technology Transfer Activities through Basel Convention Regional Centres (cont'd)

countries, Colombia, Venezuela, and the Caribbean Island States. This project addresses environmental and health-related risks associated with lead exposure. It highlights the urgent need to share all available information with the decision-makers in the concerned countries to identify ways to reduce or eliminate the adverse effects of lead released into the environment. Legal, technical, and economic aspects are expected to be taken into consideration in the development of a comprehensive regional mechanism for the environmentally sound management of used lead acid batteries in those countries. The project contributes to the minimization of hazardous wastes, fosters cleaner production through technology transfer, and will serve as a pilot project for other regions.

For more information, see <http://www.basel.int> or contact the Secretariat of the Basel Convention sbc@unep.ch



Additional Resources for Capacity Building, Technology Transfer, and Financial Assistance

Goel Cohen, *Technology Transfer: Strategic Management in Developing Countries* (Sage Publications 2004).

Financing Sustainable Energy Directory <http://www.fse-directory.net/> (an inventory of lenders and investors providing financing for renewable energy and energy efficiency).

Bernard M. Hoekman & Beata Smarzynska Javorcik (eds.), *Global Integration and Technology Transfer* (World Bank Publications 2006).

Yong S. Lee, *Technology Transfer and Public Policy* (Quorum Books 1997).

Methodological and Technological Issues in Technology Transfer: A Special Report of the IPCC Working Group III (2000) <http://www.grida.no/climate/ipcc/tectran/> (focusing on issues of technology transfer related to climate change).

Kamal Saggi, *International Technology Transfer to Developing Countries* (Commonwealth Secretariat 2005).

UNEP, *Innovative Financing to Implement Multilateral Environmental Agreements: The Case of the Montreal Protocol* (Proceedings of the Technical Workshop on Concessional Lending, 22 July 2002, L'Estereel, Canada) (2002), available at <http://www.unep.fr/ozonaction/library/mmcfiles/4028-e.pdf>.

UNEP, *Green Credit: A User's Guide to Securing Support from North American Export Credit and Development Agencies* (UNEP 2003).

UNEP, *Capacity Building for Sustainable Development: An Overview of UNEP Environmental Capacity Development Activities* (UNEP 2002) (highlighting approaches and lessons learned), available at http://www.unep.org/DEPI/programmes/capacity_building.html.

UNEP, "Capacity Building and Technology Support Database," available at <http://unep.cbts.nl.eu.org/bin/php/about/index.php>.

Gill Wilkins, *Technology Transfer for Renewable Energy: Overcoming Barriers in Developing Countries* (Royal Institute of International Affairs 2002).

See also *Guidelines 43 and 49 and accompanying text*.



THE GREEN CUSTOMS INITIATIVE

It has been estimated that local and international crime syndicates worldwide earn US\$ 22-31 billion annually from hazardous waste dumping, smuggling proscribed hazardous materials, and exploiting and trafficking in protected natural resources [International Crime Threat Assessment, U.S. White House Report (Dec. 2000)]. Illegal international trade in commodities such as Ozone Depleting Substances (ODS), toxic chemicals, hazardous wastes, and wildlife species can seriously undermine the effectiveness of MEAs, harm the environment and human health, and support organized crime.

In its efforts to improve the implementation of MEAs and enhance collaboration, synergies, and linkages among Conventions on issues of common interest (such as illegal trade), UNEP and its partners launched the Green Customs Initiative in June 2003.

The partners in the project include UNEP, Interpol (the international criminal police organization), the World Customs Organization (WCO), and the Secretariats of MEAs with trade provisions: the Montreal Protocol on Substances that Deplete the Ozone Layer, the Basel Convention on the Transboundary Movements of Hazardous Wastes and Their Disposal, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the Rotterdam Convention on the Prior Informed Consent (PIC) Procedure for Certain Hazardous Chemicals in International Trade, and the Stockholm Convention on Persistent Organic Pollutants (POPs). The Organisation for the Prohibition of Chemical Weapons (OPCW) is also participating in this project. The Governments of Norway, Finland, and the Czech Republic have supported this initiative.

The Green Customs Initiative recognises that building the capacity of customs officers, who are

GreenCustoms

at the frontline of every State's efforts to combat illegal trade, is vital to the effective implementation of many MEAs. Training is a key component of capacity building, but can be time-consuming and expensive. The Green Customs Initiative seeks to take advantage of economies of scale and offers introductory training to customs officers on several MEAs at the same time. The Green Customs Initiative also aims to improve coordinated intelligence gathering, information exchange, and guidance (such as codes of best practice) among the stakeholders involved. In a first phase of the project, six sub-regional and regional workshops were held between May 2005 and February 2006. Based on comment received from participants, a draft Training Guide for customs officers will be finalized in 2006.

The Green Customs approach has many benefits. It helps States to adopt a coordinated capacity building of national customs officers, encourage more efficient use of national human and financial resources, deter environmental crime, and

The Green Customs Initiative (cont'd)

improve national compliance under five MEAs. For MEA Secretariats, this approach encourages sharing of training infrastructure and experience developed by the Secretariats, and facilitates improved, effective, and sustained compliance with the MEAs. Finally, from an environmental perspective, the Green Customs approach helps to “green” the Customs Services, decrease environmental crime, and ultimately promotes a better and cleaner environment.

For more information, see <http://www.greencustoms.org>

E. International Cooperation and Coordination

- [34]** *There is a recognized need for a commitment by all countries to the global process of protecting and improving the environment. This may be furthered by the United Nations and other relevant international organizations, as well as through multilateral and bilateral initiatives for facilitating compliance. In this regard, steps can be taken for:*
- (a) Generating information for assessing the status of compliance with multilateral environmental agreements and defining ways and means through consultations for promotion and enhancement of compliance;*
 - (b) Building and strengthening capacities of, and transferring technologies to, developing countries, particularly the least-developed countries, and countries with economies in transition;*
 - (c) Sharing national, regional and subregional experiences in environmental management;*
 - (d) Evaluating by conferences of the parties, in the context of their overall review of the effectiveness of their respective multilateral environmental agreement, the effectiveness of mechanisms constituted under such multilateral environmental agreements for the transfer of technology and financial resources;*
 - (e) Assisting in formulating guidance materials which may include model multilateral environmental agreement implementing legislation for enhancing compliance;*
 - (f) Developing regional or subregional environmental action plans or strategies to assist in the implementation of multilateral environmental agreements;*
 - (g) Fostering awareness among non-parties about the rights, benefits and obligations of becoming a party to a multilateral environmental agreement and inviting non-parties as observers to meetings of decision-making bodies under multilateral environmental agreements to enhance their knowledge and understanding of the agreements;*
 - (h) Enhancing cooperation among multilateral environmental agreement secretariats, if so requested by the parties to the respective multilateral environmental agreements.*

International cooperation is at the core of every MEA. Simply put, MEAs would not exist if nations had not come together and agreed to adopt international law that governs a particular environmental issue or resource. Although action at the national level is vital for the implementation and enforcement of MEAs, these agreements constitute international law so the potential for nations to share experiences, approaches and policies for their implementation are myriad. No nation needs to stand alone in its efforts to comply with and enforce an MEA, because so many nations are Parties to each MEA.

It is true of all global and regional treaties that their international nature provides many opportunities for cooperation among States. Environmental agreements, however, have an added element that makes them particularly adaptable to international approaches: the problem or medium that is being addressed by the agreement is typically international in nature. Problems such as ozone depletion, biodiversity loss, transboundary movements of hazardous waste or endangered species, manufacture and use of bioaccumulating hazardous substances (such as persistent organic pollutants), and so forth are frequently global in nature.

To effectively manage a problem that is inherently global, global solutions must be applied. Similarly, bilateral or multilateral challenges associated with the migration of species across one or more national border requires transboundary solutions, albeit not necessarily at the global level.

Opportunities for international cooperation and coordination are myriad. Not only are there a large number of international organisations whose function is to facilitate such cooperation (for example, UNEP), but there is great potential for regional cooperative efforts, formal and informal bilateral contacts, NGO-driven efforts, and countless other cooperative initiatives (both official and unofficial). Training programmes, efforts to ensure legal and institutional consistency, judicial coordination, and capacity-building efforts are just a few areas in which international cooperation can improve the effectiveness of MEA compliance and enforcement.

As outlined below, international cooperation and coordination are necessary at the global, regional, subregional, and bilateral levels.



[34]

[45-49]

In addition to Guideline 34, which is discussed immediately following this chapeau, Guidelines 45-49 and the accompanying discussion set forth numerous measures for enhancing MEA implementation through international cooperation and coordination.

An authoritative foundation for the commitment by all States to the global process of protecting and improving the global environment is well grounded in countless international declarations and agreements, from the Charter of the United Nations to the Rio Principles to every MEA that is adopted.

The United Nations through its relevant organisations within the system (such as UNEP, UNDP, UNESCO, UNIDO, CSD, and FAO) as well as other international institutions such as the World Bank have been in the forefront of steering the much-desired global cooperation in the field of the environment and sustainable development.

Regional, intergovernmental, technical, and economic organisations — such as the European Union, OECD, MERCOSUR, and NAFTA — have played an important role in fostering regional cooperation and helping the Governments of member States to take coordinated actions in resolving environmental issues of regional significance and facilitating compliance with environmental accords.

For example, the European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL) is an informal network of the environmental authorities of the member states of the European Union that seeks to facilitate environmental compliance. It had a parallel network, AC-IMPEL, to assist the EU accession States. The main role of AC-IMPEL was to support these States to meet their obligations in the field of environmental legislation, specifically in terms of implementation and enforcement. It cooperated closely with the IMPEL network, and has since merged with IMPEL.

Bilateral cooperation is also essential in promoting compliance. Such assistance may to neighboring countries, where there are shared environmental resources and problems, or it may be with countries in other regions. For example, Norway has developed bilateral environmental cooperation programmes with China, Indonesia, and South Africa to promote environmental compliance. Other donor countries, MEA Secretariats, and international institutions such as GEF and the World Bank have similar initiatives.



NATIONAL COORDINATING COMMITTEES FOR MEAs IN BULGARIA

To ensure coordination of activities by the full range of stakeholders involved in implementing specific MEAs, Bulgaria has developed National Coordinating Committees (NCCs) for the MEAs that require them (namely Climate Change and Desertification). As with other similar working groups and committees, NCC participants include various relevant ministries, NGOs, and representatives from businesses. The NCCs meet on a regular basis to exchange information, resolve conflicts, and plan coordinated activities.

The National Committee on Climate Change is a policymaking body in which all relevant government institutions are represented. The Deputy Minister of Environment and Water chairs the Committee, which is responsible for:

- monitoring the implementation of the National Climate Change Action Plan;
- assessing the progress made in reducing greenhouse gas emissions;
- adjusting the Action Plan to take into account changing conditions in the State;
- tracking violations; and
- developing compensatory measures to reach the objectives of the Action Plan.

This Committee has a significant role in coordinating activities and making policy, considering the large number of governmental bodies and other public institutions involved in issues related to climate change.

In early 2003, Bulgaria established a National Coordinating Council to coordinate, facilitate, and monitor implementation of the UN Convention to Combat Desertification (UNCCD). The Minister of Environment and Water chairs the Council. The Council coordinates the activities of the different stakeholders in addressing desertification. It also is responsible for elaborating a Soil Law, a Soils, and a National

National Coordinating Committees for MEAs in Bulgaria (cont'd)

Action Plan to Combat Desertification. Following its establishment, the Council has adopted a work plan and schedule for its activities. It has also elaborated mechanisms for financing, management, and evaluation of its activities.

For more information, contact Boryana Kamenova at bor@moew.government.bg

Information on Compliance Status

- [34]** (a) *Generating information for assessing the status of compliance with multilateral environmental agreements and defining ways and means through consultations for promotion and enhancement of compliance;*

As States adopt different approaches to achieve compliance with MEAs, specifically tailored to their State's legal, institutional, and cultural structure, they can learn what might and might not be effective for them. In other words, each compliance effort is a potential lesson learned. Sharing the experience of these lessons through generating and assessing data on the status of compliance can give Parties to an MEA the opportunity to draw on the experience of many States in efforts to improve their compliance.

In addition to the case studies below, there is a case study on “The Montreux Record: A Register of Ramsar Sites Facing Challenges” following Guideline 14(d) which describes a voluntary approach under the Ramsar Convention that collects and highlights information on compliance status, particularly when compliance may be affected by particular circumstances.



[14(d)]



UNFCCC AND THE KYOTO PROTOCOL

A good example of lessons learned in generating information on the status of compliance comes from the experiences gathered under the UNFCCC and the Kyoto Protocol. Under the UNFCCC, Parties undertake to generate information vital to the implementation of the MEA, that is, on existing national inventories of sources of greenhouse gases, with a few exceptions. Significantly, too, under the Convention, the COP mandated to establish a multilateral consultative process for resolving questions relating to implementation. The COP of this Convention has been one of the most dynamic supreme body of MEAs as a forum of international cooperation to promote and enhance compliance, especially in the light of the controversies trailing the Kyoto Protocol and compliance issues under the Protocol since its inception in 1997.

Article 18 of the Kyoto Protocol mandated the COP as the Meeting of the Parties to the Kyoto Protocol (COP/MOP), at its joint session to approve “procedures and mechanisms” to determine and address cases of non-compliance with the Protocol.

At COP 7, Parties adopted a decision on the compliance regime for the Kyoto Protocol, which is among the most comprehensive in the international arena. It makes up the “teeth” of the Kyoto Protocol, facilitating, promoting and enforcing adherence to the Protocol's commitments.

The compliance regime consists of a Compliance Committee made up of two branches: a Facilitative Branch and an Enforcement Branch. The Facilitative Branch aims to

UNFCCC and the Kyoto Protocol (cont'd)

provide advice and assistance to Parties in order to promote compliance, whereas the Enforcement Branch has the power to apply consequences to Parties not meeting their commitments. The Facilitative Branch can make recommendations and also mobilise financial and technical resources to help Parties comply.

A potential compliance problem — known as the “question of implementation” — can be raised by an expert review team or by a Party about its own compliance (for example, if it wishes to seek help from the Facilitative Branch), or by a Party raising questions about another Party.

After a preliminary examination, the “question of implementation” will be considered in the relevant branch of the Compliance Committee. The Compliance Committee will base its deliberations on reports from experts review teams, the subsidiary bodies, Parties and other official sources. Competent intergovernmental and non-governmental organisations may submit relevant factual and technical information on the relevant branch.

For more information, contact the UNFCCC Secretariat at secretariat@unfccc.int



NATIONAL OFFICES FOR IMPLEMENTING THE MONTREAL PROTOCOL

With support from UNEP, add developing nations have established national offices (with staff and funding) to assist in implementing the Ozone Conventions (including the Montreal Protocol). There is no fixed level of support, but the specific amount is negotiated based on the particular requirements of that nation. Typically, the funding covers an officer, operating costs, and equipment. Some outreach activities are also funded.

For more information, see <http://www.unep.fr/ozonaction> or contact ozonaction@unep.fr



NGOs PROVIDING NEWS RELATING TO MEA IMPLEMENTATION

In a number of countries, NGOs are essential in raising public awareness regarding MEAs. In the UNECE region, NGOs have been particularly active in providing news regarding implementation and operationalisation of the Aarhus Convention and other MEAs. Following are a few examples.

Since 2000, in Kazakhstan, an NGO "Ecological Press Center" disseminates an electronic newsletter Ekopravda (Ecological Truth), which initially targeted NGOs but became a popular source of environmental information for a wide range of stakeholders in the region. Now, it is sent to over 700 regional subscribers two or three times a week. Among variety of environmental questions, Ekopravda regularly describes the state of affairs in Kazakhstan with regard to implementation of different MEAs to which the State is a Party.

For more information, see

<http://www.ecopress.lorton.com/ecopress/Ekopravda.html> (in Russian).

In Ukraine, since 1994, a non-governmental information center "Green Dossier" provides materials and digests for various mass media and journalists on domestic and international environmental matters and features national implementation efforts on certain MEAs.

For more information, see **<http://www.dossier.kiev.ua>** (available in Ukrainian, Russian, and partially in English).

In Russia, the Center for Environment and Sustainable Development "Eco-Accord", established in 1992, focuses on raising public awareness on issues of environment and sustainable development. Eco-Accord takes an active part in international processes, such as "Environment for Europe" and "Environment and Health", and participates in cooperation on environment and sustainable development in Asia-Pacific Region. It offers materials on implementation and status of ratification of a number of MEAs at its website and broadly disseminates a monthly e-mail "water digest" that includes news on water-related MEAs and international initiatives.

For more information, see **<http://accord.cis.lead.org>** (in Russian and English).

Capacity Building and Technology Transfer

[34] (b) *Building and strengthening capacities of, and transferring technologies to, developing countries, particularly the least-developed countries, and countries with economies in transition;*

Enabling mechanisms under many MEAs (for example, the Climate Change Convention and the Convention on Biological Diversity) expressly provide for capacity building, financial assistance and technology transfer. The objectives of these provisions is to assist in building and strengthening capacities in the developing countries and countries with economies in transition, bearing in mind that these countries often have insufficient economic and technical capability to fully meet their obligations.

There are ongoing bilateral agreements bringing environmental management skills and technology from developed nations through development cooperation with the developing countries and countries with economies in transition.



In addition to the case studies below, see the case studies and additional resources following Guideline 33 (especially on the “Bali Strategic Plan on Technology Support and Capacity-building”) and “Implementing the Clean Development Mechanism (CDM) in Morocco” (following Guideline 21).



NORWAY – BILATERAL DEVELOPMENT COOPERATION

In 1997, Norwegian Ministry of Foreign Affairs joined with the Ministry of the Environment to develop a consistent strategy for environmental development cooperation. One of the main policies of the strategy is to strengthen the development partners’ determination and ability to address their environmental



Dust blowing from Namibia.

problems. Therefore, the focus is on formulating and implementing national environmental plans and strategies. This includes building institutional capacity and competence, mapping and monitoring of the resource base, as well as support for education and training in science and technology. Particular emphasis is put on capacity and development of systems for assessing environmental impacts. Development cooperation funding is also used in the development and implementation of national and global treaties and conventions, for instance, to address climate change, biodiversity and ozone issues. Norway today has special cooperation agreements with a number of developing countries, including China, Indonesia, and South Africa. In addition to these special arrangements on

Norway – Bilateral Development Cooperation (cont'd)

environmental cooperation, projects of varying size and length are being carried out in a number of other developing countries.

In Mozambique, institution cooperation between the Norwegian Pollution Control Authority (SFT) and the Ministry of Coordination of Environmental Affairs is aimed at further developing and strengthening the latter, in order to enable it to perform its role as an environmental authority effectively. Similarly, in Namibia, an adviser from SFT is assisting the Ministry of Environment and Tourism in Developing a Programme for Pollution Control and Waste Management. Also in Zambia, SFT is participating in projects that seek to regulate air and water pollution, in addition to improving waste management and environmental information. In Tanzania, the Directorate for Nature Management (DN) and various Norwegian research institutes are assisting the Ministry of Natural Resources and Tourism in developing programmes for the management of renewable resources, forests, and biological diversity. In Vietnam, SFT has assisted the authorities in the development of management systems to improve pollution control in the State's growing oil industry.



THE REGIONAL ENVIRONMENTAL CENTER FOR CENTRAL AND EASTERN EUROPE (REC)

Established in 1990, the Regional Environmental Center for Central and Eastern Europe (REC) is an independent international organisation that provides assistance to countries in Central and Eastern Europe. The REC is a non-advocacy, not-for-profit organisation, based in Hungary with offices in 17 States. [There are also sister institutions — other RECs — in the Caucasus, Central Asia, Moldova, Russia, and Ukraine.]

The REC provides assistance in solving the region's environmental problems. It does this by promoting cooperation (among NGOs, private institutions, Governments, businesses, and other environmental stakeholders) and by promoting the free exchange of information and public participation. The REC works in various fields of sustainable development, including environmental law and policy, biodiversity, climate change, renewable energy, environmental information, public participation, and waste management.

Through different activities, such as capacity-building and training programmes, pilot projects, environmental assessments, educational packages, and grants, the REC supports CEE States in various political and economic situations. The Center also disseminates the regional experience to other States around the whole world.

Among its numerous activities, the REC has participated in the development of MEAs (such as the Aarhus Convention, PRTR Protocol, Protocol on Strategic Environmental Assessment, Carpathians Convention, International Framework Agreement on the Sava River Basin, and Civil Liability Protocol under the UNECE Watercourses and The

Regional Environmental Center for Central and Eastern Europe (REC) (cont'd)

Accidents Conventions), provided assistance in ratifying and acceding to MEAs, and facilitated the implementation of MEAs. Three examples include the AIMS Project (for implementing MEAs) in South Eastern Europe [see case study following Guideline



[21]

[34(e)]

[49(a)]

49(a)], developing the Implementation Guide to the Aarhus Convention [see case study following Guideline 34(e)], and assisting States to develop strategies implementing the Aarhus Convention [see case study following Guideline 21]. In addition, the REC has provided support to four States in implementing the Sava River Basin Agreement (mentioned above).

Another example is a project to assist States in Eastern Europe, Caucasus, and Central Asia (EECCA) in implement the Aarhus Convention at the national and local levels. The REC and Royal Haskoning implemented this project in Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Ukraine. In cooperation with the Ministries of Environment, environmental NGOs, and other stakeholders, the project built capacity of a broad range of stakeholders to implement the Convention. Among other activities, the project developed and published User Guides for Officials and for Civil Society in English and in local languages, training materials, and training courses on the requirements of Aarhus Convention. This capacity building was supplemented by pilot projects to support the practical implementation of the Convention at national and local levels.

For more information, see <http://www.rec.org/>

Experience Sharing and Networking

[34] (c) *Sharing national, regional and subregional experiences in environmental management;*

Sharing compliance experiences at all levels can greatly enhance Parties' compliance efforts. Although networking efforts need not be official or global in nature to be effective, networks expressly designed to facilitate compliance can further these efforts. There are a great number of networking initiatives that seek to build capacity and exchange experiences at the national, regional, subregional, and global levels. There is also a great variation in the effectiveness of these initiatives.

Additional examples of networking can be found following Guidelines 11(b) (AMCEN), 44 (CERN), 49(a) (AIMS), and 49(e).



[11(b)]

[44]

[49(a)]

[49(e)]



GLOBAL INITIATIVES TO SHARE EXPERIENCES IN ENVIRONMENTAL MANAGEMENT

International Network for Environmental Compliance and Enforcement (INECE)



INECE is a partnership among environmental compliance and enforcement practitioners

– inspectors, prosecutors, parliamentarians, judges,

and others – from more than 150 States. Founded in 1989 by the Dutch and U.S.

environmental agencies, INECE is a global leader in raising awareness of compliance and enforcement; developing networks for environmental cooperation; and strengthening capacity to implement and enforce environmental requirements. INECE is governed by a 30-member Executive Planning Committee; the INECE Secretariat provides technical, analytical, publications, communications, and administrative support for the network.

Key INECE activities include holding international conferences, topical workshops, and capacity building events that bring together practitioners to share experiences and identify solutions; providing extensive resources and country-level enforcement initiatives via its website; supporting the development of regional networks for enforcement cooperation, including in the Maghreb region; and hosting expert working groups on topics including "Environmental Compliance and Enforcement Indicators," "Compliance Aspects of Emissions Trading Systems," "Improving Water Governance," and "Judiciary." INECE compiled and edited 'Making Law Work: Environmental Compliance & Sustainable Development', a two-volume set of

Global Initiatives to Share Experiences in Environmental Management (cont'd)

literature on topics related to compliance with and enforcement of laws to protect the environment and promote sustainable development.

For more information, see <http://www.inece.org>

Environmental Law Alliance Worldwide (E-LAW)

Some networks, such as E-LAW, focus on exchanging information within a specifically defined constituency. Since its start in 1989, E-LAW has grown into a network of public interest environmental lawyers and scientists in more than 60 States. Since many of the E-LAW members are involved in litigation against government authorities, membership is open only to public interest (NGO) advocates. The network draws its strength from its ability to exchange legal and technical information rapidly, from the strong inter-personal relationships among its members, and from shared goals of its members.



For more information, see <http://www.elaw.org> (which includes the history of E-LAW at <http://www.elaw.org/resources/text.asp?ID=2661>)

IUCN Commission on Environmental Law

The IUCN Commission on Environmental Law (CEL) is the world's largest network of environmental law and policy experts. Created in the early 1960s, CEL has over 975 members from more than 130 States. CEL operates as an integral part of the IUCN Environmental Law Programme, which includes the IUCN Environmental Law Centre (ELC), Bonn, a professional international office with 15 legal and information specialists. CEL has created a series of Specialist Groups, including the Compliance and Enforcement Specialist Group, which includes many of the world's leading experts on such issues. The terms of reference for the Group can be found at <http://www.iucn.org/themes/law/cel03A.html>



For more information on CEL, see <http://www.iucn.org/themes/law> (which includes a link to IUCN's on-line International Directory of Institutions Active in Environmental Law).

Other Global Networks

World Customs Organization (WCO) <http://www.wcoomd.org/>

Interpol <http://www.interpol.int/>



CUSTOMS ENFORCEMENT NETWORK OF THE WORLD CUSTOMS ORGANISATION (WCO)

Established in 1952 as the Customs Co-operation Council, the WCO is an independent intergovernmental body whose mission is to enhance the effectiveness and efficiency of Customs administrations. As of January 2006, the WCO includes 169 Member States.

To facilitate cooperation in enforcement and in dissemination of information and intelligence, WCO established a Customs Enforcement Network (CEN). CEN is an Internet-based information system for data-exchange and communication between and among Customs services. CEN has three main elements: a database of seizures and offences (including analytical capacity regarding *modus operandi*, trends, concealment methods, routes, etc.), a web site, and a communication system.

*For more information, see <http://www.wcoomd.org>
or <http://www.greencustoms.org/wco/home.htm>,
or contact communication@wcoomd.org*



MEA CLEARING HOUSES

Many MEA Secretariats have established Internet-based clearing houses to exchange experiences and best practices of implementation. These clearing houses often collect examples of laws, policies, institutional arrangements, and good practices. While they often seek to facilitate governmental efforts to develop and apply national measures implementing the particular MEA, the clearing houses are usually accessible and useful to a broader range of academic, NGO, private, and public users.

These clearing houses facilitate compliance by providing legal, policy, and institutional options for States seeking to implement their commitments under an MEA. Some MEA clearing houses include:

- Environmental Democracy Clearing House for the Aarhus Convention <http://aarhusclearinghouse.unece.org/>
- Biosafety Clearing House for the Cartagena Protocol on Biosafety <http://bch.biodiv.org/>
- UNCCD Information Network Database <http://ag.arizona.edu/cgi-bin/cstccd.cgi>
- Global Programme of Action for the Protection of the Marine Environment from Land-based Activities Clearing House Mechanism <http://www.gpa.unep.org/>

In addition to these clearing houses, there are many other Internet-based resources on MEAs. Some of these are listed in Annex VII of this Manual.

In addition to global networking efforts, there are numerous regional and subregional networks. While the successful global networks tend focus on a particular professional or topical niche where there is a shared interest, if not a shared context — for example, public interest environmental advocates — regional and subregional networks frequently are able to take advantage of shared languages, similar legal systems, and transboundary ecosystems and resources that require collaborative efforts to ensure their sustainability.



REGIONAL INITIATIVES

European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL)

IMPEL is an informal network of the environment authorities of the Member States of the European Union. Triggered by a Dutch initiative, IMPEL was conceived at an informal meeting of the Community Environment Ministers in 1991 where it was agreed that: “It would be desirable as a first step to establish a Network of representatives of relevant national authorities and the Commission in the field of enforcement, primarily aimed at exchange of information in the field of compliance and enforcement, and at the development of common approaches at a practical level”. IMPEL activities are guided by the IMPEL Plenary Meetings, which normally take place twice a year. They are co-chaired by the Member State holding the six months’ Presidency of the European Union and the European Commission. All IMPEL activities take place within a project structure. Since its inception, a “network” of National Coordinators has been in place, which provides an important point of the organisation of the Network. IMPEL’s mission and objectives have developed over time. The Multi-Annual Work Programme for 2002-06 stated:

The objectives of IMPEL are to create the necessary impetus in the European Community (including the candidate States and other States applying EU environmental law) to make progress on ensuring a more effective application of environmental legislation. The Network promotes the exchange of information and experience and the development of a greater consistency of approach in the implementation, application and enforcement of environmental legislation, with a special emphasis on community environmental legislation.

AC-IMPEL, the network for EU Accession States, merged with IMPEL in 2003. The new pre-accession network ECENA (Environmental Compliance and Enforcement Network for Accession) has taken over from AC-IMPEL in providing tailor-made activities for the acceding and (pre-accession) candidate States, and ECENA has established close ties with IMPEL.

For more information on IMPEL, see
<http://europa.eu.int/comm/environment/impel/>

Regional Initiatives (cont'd)

Arab Network for Environment and Development/Arab Office for Environment (RAED/AOYE)

The Arab Network for Environment and Development (RAED) currently includes more than 260 NGOs from Mauritania, Morocco, Algeria, Tunisia, Libya, Sudan, Egypt, Jordan, Palestine, Lebanon, Syria, Kuwait, Qatar, Bahrain, Oman, Saudi Arabia, and Yemen. RAED seeks to:

- Gather, disseminate, and exchange regional and international data on different environmental and development problems.
- Coordinate between regional community organisations to exchange skill, experiences, and information.
- Mobilize grassroots to have a share in this information and to partake in the problem-solving process.
- Create new grassroots activities to be implemented by RAED NGOs members.
- Encourage inclusion of community participation projects in government programmes to achieve sustainable development.

For more information on RAED's information services (including information processing and presentation) and documentation of ecosystems, see <http://www.ayoe.org/RAED/elba.html>

Guta Association

The Association of Environmental Law in Central/Eastern Europe and Newly Independent States (or the "Guta Association") is a network of public interest environmental lawyers and advocates in Central and Eastern Europe, Caucasus, and Central Asia. It seeks to promote regional cooperation in public interest environmental law reform and advocacy, while supporting environmental protection, rule of law, and participatory democracy. The Association organises annual conferences (the Guta Conferences) for its members to exchange information, build skills on specific issues, and network. Through the Association, members share experiences regarding environmental litigation and campaigns, discuss joint projects, and plan future cooperation. The Association produces a periodic newsletter ("Environmental Advocacy") for members and other interested persons and organisations. The newsletter provides a forum for exchanging information on cases, legal developments, and funding opportunities. The association also supports members in international and national legal cases.

The Association grew out of a regional conference, which was held in Guta, Ukraine, in June 1995. The meeting was initially intended to be a one-time event, but the participants were so enthusiastic about the value of the networking experience that they decided to turn it into an annual event in different States around the region (the 9th Guta Conference was held in 2004). Ecopravo-Lviv (in Ukraine) serves as the headquarters of the Guta Association.

For more information, see

<http://www.ecopravo.lviv.ua/guta/> or contact epac@mail.lviv.ua



PACIFIC REGIONAL ENVIRONMENT PROGRAMME (SPREP)

The Pacific Regional Environment Programme (SPREP) is an intergovernmental organisation comprising 25 States and Territories. It has the responsibility to build capacity within member States to manage their own environment.

Secretariat for Regional Conventions

SPREP is the secretariat for regional environmental conventions and their protocols. These MEAs strengthen the regional legal frameworks for implementing global conventions. For example, the Waigani Convention provides for strict control over the transboundary movement of hazardous wastes and the sound management of these hazardous wastes. As such, the Waigani Convention has the potential to facilitate the implementation of the global chemicals conventions (the POPs, PIC, and Basel Conventions). Toward this end, the Pacific Joint Centre for Information and Technology Transfer for the implementation of the Basel and Waigani Conventions was established within SPREP in December 2003.

With SPREP's assistance, some of the regional instruments are being amended to fully implement global MEAs. For example, the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region (Noumea Convention) and its related Protocols provide a framework for cooperation in preventing pollution of the marine and coastal environment in the region. The two current protocols (relating to Dumping and Emergency) are in the process of being amended in order to bring them in line with the 1996 Protocol to the Convention on Prevention of Marine Pollution by Dumping of Wastes and Other Matter (London, 1972) and the Convention on Oil Pollution Preparedness, Response and Cooperation 1990 (OPRC) and the OPRC Hazardous and Noxious Substances Protocol. Similarly, the Apia Convention, which promotes the creation of protected areas, is being reviewed in the light of newer conventions such as CBD, CITES, and Ramsar and may be amended to provide synergies.

Capacity Building to Implement MEAs

To support SPREP Members, the Secretariat promotes coordination at the national level, provides technical and legal advice to States (for example in drafting national legislation), assists in preparing briefing papers for international negotiating conferences, coordinates pre-conference consultations to determine regional positions, and strengthens regional legal frameworks. SPREP builds capacity of Pacific Island States to develop, implement, and enforce MEAs in many ways. It conducts research, offers training courses, and develops materials. SPREP also promotes the placement of staff from other secretariats of Conventions and NGOs *at its Headquarters*.

SPREP's regional workshops promote implementation of MEAs in various ways. They build awareness and interest of Member States in MEAs. Workshops help to develop regional positions prior to COPs, particularly on issues of direct relevance

Pacific Regional Environment Programme (SPREP) (cont'd)

to the region. SPREP also holds training workshops on specific aspects relating to implementation of MEAs. SPREP also advises Pacific delegates during COPs and other negotiations of global MEAs.

SPREP also builds capacity to implement MEAs through development of materials. For example, SPREP in collaboration with the UNU developed a Waigani Handbook. This user-friendly handbook provides a general description of the Articles and the tools for implementation of each of the four Chemical Conventions, namely the Waigani Convention, the Basel Convention, the Rotterdam Convention, and the Stockholm Convention. The Handbook also contains information about synergies among these Conventions. A copy of the handbook can be obtained by contacting SPREP at sprep@sprep.org.ws

SPREP works with institutions such as UNU to identify synergies among agreements and related international processes such as the Commission on Sustainable Development (CSD) and Mauritius Strategy for the Further Implementation of the Program of Action for the Sustainable Development of Small Island Developing States. Through the inter-linkages approach, SPREP facilitates the effective establishment of national coordination and consultation systems for the negotiation, ratification, and implementation of MEAs. *For more information, see case study on the UNU Inter-Linkages Handbook following Guideline 34(h).*



For more information on SPREP, visit <http://www.sprep.org/> or contact sprep@sprep.org.ws



REGIONAL NETWORKS AND SOUTH-SOUTH COOPERATION TO ASSIST COUNTRIES IN COMPLYING WITH THE MONTREAL PROTOCOL

As the global community was implementing the Protocol – which was the first time an MEA included such time-bound global actions – the world needed innovative tools to make the treaty work, particularly in the area of capacity building. The Regional Networks of ODS Officers discussed in this case study fill that niche: they enhance multilateral cooperation to enable developing countries to meet their obligations under the Protocol.

Regional Networking provides a regular, interactive forum for officers in National Ozone Units (NOUs — see case study following Guidelines 30 and 31) to exchange experiences, develop skills, and share knowledge and ideas with counterparts from both developing and developed countries. Through regular meetings, e-mail fora, and on-going dialogues, networking helps ensure that NOUs have the information, skills, and contacts required for managing national ODS phase-out activities successfully. The Networks provide open and collegial fora in which Ozone Officers are free to discuss their difficulties and everyone can learn from others. Network meetings and

Regional Networks and South-South Cooperation to Assist Countries in Complying with the Montreal Protocol (cont'd)

communication also provide opportunities for informal peer-to-peer problem solving and seeking of advice.

The OzonAction Programme currently operates four regional and three sub-regional networks comprising 148 developing and 14 developed countries, which have resulted in Member States taking early steps to implement the Montreal Protocol. The Networks are supported by the Multilateral Fund (the Southeast Asia and the Pacific Network operates with assistance provided by the Government of Sweden) and managed by the UNEP/DTIE OzonAction Programme.

English-Speaking Caribbean

Since 1997, an Ozone Officers Network in the English-Speaking Caribbean has met twice a year to discuss problems associated with implementation of the Montreal Protocol, share best practices, and develop cooperative and cost-effective joint implementation activities. [From 1994-96, these ozone officers participated in the Latin American and Caribbean network, but language difficulties led to the creation of this separate network.]

Saint Lucia has been a leader within the network. The NOU in Saint Lucia has benefited from having its personnel in place without change from the beginning of its involvement with the Protocol. This has allowed the State to develop considerable expertise in Protocol-related matters, and this combination of circumstances has enabled Saint Lucia to offer assistance to network members with Protocol-related matters, including:

- assistance to some Parties in returning to compliance, for example by assisting in the reporting requirements (Belize and St. Kitts & Nevis);
- assistance in developing national import/export licensing systems (Guyana, St. Kitts & Nevis, Bahamas, and Grenada);
- training of customs officers in enforcement of licensing systems (Guyana, Trinidad & Tobago, Jamaica, and Antigua & Barbuda); and
- Capacity building and training of National Ozone Unit personnel (St. Kitts & Nevis).

For information, contact Mr. Crispin d’Auvergne at cdauvergne@planning.gov.lc

Europe and Central Asia

The Regional Ozone Network in Europe and Central Asia (ECA network) was created in 2003 with the financial support from the Multilateral Fund, the Czech Republic, Hungary, and the Slovak Republic. It is now part of UNEP Compliance Assistance Programme and includes the 14 Member States (Albania, Armenia, Bosnia & Herzegovina, Croatia, Cyprus, Georgia, Kyrgyzstan, Former Yugoslav Republic of Macedonia, Moldova, Romania, Montenegro, Serbia, Turkey, and Turkmenistan). In addition, Austria, Czech Republic, Croatia, Hungary, Slovak Republic, and Sweden support the network with financial and in-kind resources.

Regional Networks and South-South Cooperation to Assist Countries in Complying with the Montreal Protocol (cont'd)

The work programme of the ECA network includes network, thematic, and contact group meetings; direct country-to-country assistance; regional awareness raising; programmatic support; and targeted assistance to countries with compliance issues. The ECA network actively encourages cooperation, synergies, and cross-fertilisation with and among the following initiatives and stakeholders:

1. Ozone family including the Secretariats (Ozone Secretariat and Multilateral Fund Secretariat), Implementing Agencies (World Bank, UNDP, and UNIDO), and expert committees (Technical & Economic Assessment Panel, Technical Options Committees);
2. Bilateral partners including Austria, Canada, Czech Republic, Hungary, Israel, Slovak Republic, and Sweden;
3. Regional networks including the Regional Intelligence Liaisons Offices (RILOs), the Regional Environment Centres (RECs), Accession Networks of the European Union, and the Environmental Investigation Agency;
4. UNEP's Regional Offices in Africa, Asia Pacific, Latin America & the Caribbean, and West Asia as well as the UNEP-GEF and Information teams in UNEP-DTIE;
5. Regional activities including the GEF-funded project on Total Methyl Bromide Sector Phase-out in CEITs and UNEP's Green Customs Initiative;
6. GEF-funded Article 2 countries in the ECA regions; and
7. MEAs including the Montreal Protocol, Kyoto Protocol, Basel Convention, Rotterdam Convention, and Stockholm Convention.

For more information about how networking has facilitated the exchange of experiences within and among regions, see <http://www.unep.fr/ozonaction/aboutus/networks.asp>, http://www.unep.fr/ozonaction/library/mmc/lib_detail.asp?r=3802, and <http://jp1.estis.net/sites/ecanetwork/>



Other Regional Networks

Asociación Interamericana para la Defensa del Ambiente (AIDA, or the Interamerican Association for the Defense of the Environment) (a network of environmental law NGO in the Americas that seeks to strengthen international collaboration in environmental law enforcement)

<http://www.aida-americas.org/aida.php> (in Spanish)

Alianza Regional de Políticas Conservacionistas para América Latina y El Caribe (ARCA, or Regional Conservation Policy Alliance for Latin America and the Caribbean) (network of Latin American conservation NGOs)

<http://www.arca-net.com/gobierno.htm> (in Spanish)

Comisión Centroamericana de Ambiente y Desarrollo (CCAD, or Central American Commission on Environment and Development) [see case study following Guideline 46]

<http://www.ccad.ws/> (in Spanish)

Environmental Law Network International (ELNI)

<http://www.oeko.de/elni/> (in English)

EU-CLEEN Network (Chemical Legislation Environmental Enforcement Network) [see case study following Guideline 48(d), (e)]

<http://www.cleen-eu.net>

Inter-American Bar Association (IABA) (with a Committee on Natural Resources and Environmental Protection)

<http://www.iaba.org/> (in English, French, Portuguese, and Spanish)



Additional Resources On Networking

Donald Kaniaru, "The Role of Institutions and Networks in Environmental Enforcement," in Proceedings of the Sixth International Conference on Environmental Compliance and Enforcement, vol. 2 (INECE 2002), available at

<http://www.inece.org/conf/proceedings2/10-Role%20of%20Institutions.pdf>

Kal Raustalia, "The Architecture of International Cooperation: Transgovernmental Networks and the Future of International Law," in Durwood Zaelke et al., *Making Law Work: Environmental Compliance & Sustainable Development*, vol. 2, p. 405 (Cameron May 2005).

CHECKLIST FOR DEVELOPING NETWORKS

Networks are a popular way to exchange information, share experiences, and build capacity. Numerous networks have been established, some more successful than others.

When deciding whether to set up a network and (if so) what form the network should take, the organisers should consider the following two sets of questions:

- What is the value added of the network? How is it different from other networks?
- Is the burden (time, dues, etc.) placed on the network members appropriate? Or will it dissuade people from participating

If the decision is made to establish a network, organisers will need to do the following tasks:

- Define the objectives of the network
 - What are the geographic scales of the objectives (local, national, subregional, regional, global)?
 - What environmental media are targeted (air, water, biodiversity, etc.)?
 - What sectors are targeted (government (enforcement officers, judges, legislators, etc.); private sector; NGOs; academia; others)?
 - Are there specific goals, after which the network will be disbanded?
 - For each of these issues, are the objectives specific or general?
- Identify activities for the network (how the network will pursue its objectives). These may include, for example:
 - Joint projects
 - Exchange of information, experiences, and other communications (whether electronically or in person, at workshops/conferences/events or through individual exchanges, etc.)
 - Coordinated campaigns
- Based on these considerations, define the scope of the network and its membership.
 - Geographic
 - Thematic
 - Sector (government, private sector, NGOs, etc.)
 - Size of the network.
 - Nature of a "member": Can individuals be members? Institutions? How are these determined?
- Determine how the network will function.
 - How are members selected? By consensus?
 - Will there be a secretariat? Staff?
 - How will the network be funded? Will there be dues or in-kind contributions? Will it rely on external funding for it to operate?
 - How will the network disseminate information? Often this is done electronically, but do all the members have good Internet access?

Review of Effectiveness of Mechanisms for Resource and Technology Transfer

[34] (d) *Evaluating by conferences of the parties, in the context of their overall review of the effectiveness of their respective multilateral environmental agreement, the effectiveness of mechanisms constituted under such multilateral environmental agreements for the transfer of technology and financial resources;*

Just as MEAs should be evaluated periodically to assess their effectiveness, so too should their provisions for transfer of technology and financial resources. Without functioning measures for such transfer, the prospects for developing countries and countries with economies in transition to meet their obligations can be greatly diminished.

International institutions can complement and support review by COPs of experiences with the transfer of technology and financial resources. For example, in 2002, UNEP published *Implementation of Renewable Energy Technologies: Project Opportunities and Barriers, Summary of Country Studies*, which identified and addressed potential barriers to implementation of renewable energy technologies that might be transferred.



[33]

For additional discussion of transfer of technology and financial resources, see Guideline 33 and accompanying text.



CONVENTION ON BIOLOGICAL DIVERSITY AND TECHNOLOGY & RESOURCE TRANSFER EVALUATION

The Sixth COP of the Convention on Biological Diversity (CBD) called for an assessment of mechanisms constituted thereunder for the transfer of technology and financial resources. It also adopted a Strategic Plan for the Convention on Biological Diversity.

In the Strategic Plan, it was observed as one of the challenges facing implementation of the CBD that “the provision by developed country Parties of resources to implement the convention is critical and essential.” The COP resolved that the Strategic Plan can promote broad-based action by facilitating action around agreed goals and collective objectives, including “Goal 2: Parties have improved financial, human, scientific, technical and technological capacity to implement the Convention.”

Building on this assessment, the Seventh Conference of the Parties (COP 7) adopted a programme of work on technology transfer and technological and scientific cooperation (Decision VII/29). The purpose of the programme is to develop meaningful and effective action to enhance implementation of Articles 16 to 19 as well as related provisions of the Convention by promoting and facilitating the transfer of and access to technologies from developed countries to developing countries and countries with economies in transition.

For more information, see <http://www.biodiv.org> or contact secretariat@biodiv.org

Guidance Materials on Implementing MEAs

- [34]** (e) *Assisting in formulating guidance materials which may include model multilateral environmental agreement implementing legislation for enhancing compliance;*

Guidance materials, such as model legislation implementing MEAs, can be extremely helpful in compliance efforts, particularly when they are developed jointly by a number of Parties. Although such materials will probably have to be tailored somewhat to fit each State's individual needs, they can provide an extremely useful foundation for national efforts. As the checklist below indicates, developing national legislation is a process requiring several steps, but consulting guidance documents and model legislation can be an important part of the process, as well as a time-saving exercise.

There are numerous guidelines that have been developed by MEA Secretariats and independent bodies (including NGOs) to facilitate implementation of various MEAs. Following is a partial list of some of the guidelines, model laws, and other guidance for some MEAs.

For the Basel Convention:

- Model National Legislation <http://www.basel.int/pub/modlegis.pdf>
- Guidance Document on Transboundary Movements of Hazardous Wastes Destined for Recovery Operations
<http://www.basel.int/meetings/sbc/workdoc/old%20docs/guidelns.pdf>
- Guide to the Control System (Instruction Manual) (1998)
<http://www.basel.int/pub/instruct.doc>
- Guidance Document on the Preparation of Technical Guidelines for the Environmentally Sound Management of Wastes Subject to the Basel Convention
<http://www.basel.int/meetings/sbc/workdoc/framework.doc>
- Other Legal, Technical, and Scientific Guidelines, Guidance, and Training Manuals are available in some or all of the six UN languages at
<http://www.basel.int/meetings/sbc/workdoc/techdocs.html>

For CITES:

- CITES Handbook (2005)
- Checklist of CITES Species and Annotated CITES Appendices (2005)
http://www.cites.org/common/resources/2005_CITES_CheckList.pdf
- Identification Manuals (for Flora and for Fauna)
<http://www.cites.org/eng/resources/publications.shtm>

- CITES Identification Guides
http://www.cws-scf.ec.gc.ca/enforce/species_e.cfm
- Identification Guide for Ivory and Ivory Substitutes
<http://www.cites.org/eng/resources/pub/E-Ivory-guide.pdf>
- Guidelines on Co-operation between Customs Administrations and CITES Management Authorities Managing the Trade in Animals and Plants (in English, French, and Spanish)
- CITES World (thematic newsletter, which provides guidance; available in English, French, and Spanish)
<http://www.cites.org/eng/news/newsletter.shtml>
- Evolution of CITES (providing guidance on CITES issues)
<http://www.cites.org/eng/resources/publications.shtml>
- CITES Training Presentations (providing practical implementation guidance) [available from the CITES Secretariat on a credit-card CD-ROM; available in English, French, and Spanish]
- Introduction to CITES for Customs [available from the CITES Secretariat on a credit-card CD-ROM; available in English, French, and Spanish]

For the Convention on Biological Diversity (CBD):

- Handbook of the Convention on Biological Diversity, by the CBD Secretariat (3rd ed. 2005) <http://www.biodiv.org/handbook/>
- A Guide to the Convention on Biological Diversity, by Lyle Glowka et al. (IUCN 1994).
- Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of Benefits Arising out of the Utilization
<http://www.biodiv.org/decisions/default.aspx?m=cop-06&d=24>
- An Explanatory Guide to the Cartagena Protocol on Biosafety by Ruth Mackenzie et al. (2003) (in English, French, Russian, and Spanish) (IUCN 2003)
<http://www.iucn.org/themes/law/pdffdocuments/Biosafety%20Guide/Biosafety-guide-prelims.pdf>
- Guidelines for Incorporating Biodiversity-Related Issues into Environmental Impact Assessment Legislation and/or Processes and in Strategic Environmental Assessment (in English; in conjunction with the Espoo Convention)
http://www.unece.org/env/eia/documents/links_between_conventions/decisionvi7of6thcopofcbd.pdf
- A Guide to Designing Legal Frameworks to Determine Access to Genetic Resources, by Lyle Glowka, IUCN Environmental Policy and Law Paper No. 34 (1998).

- A Guide to Designing Legal and Institutional Frameworks on Alien Invasive Species, by Clare Shine et al., IUCN Environmental Policy and Law Paper No. 40 (2000).

For Vienna Convention and the Montreal Protocol (the Ozone MEAs):

- Guidelines for Development of Refrigerant Management Plans (RMPs) in Low-Volume ODS-Consuming Countries (LVCs) (2000) (in English)
http://www.unep.fr/ozonaction/library/mmc/lib_detail.asp?r=3771
- Training Guidelines for Identification of Needs and Coordination of Activities (1997) (in English, French, and Spanish)
http://www.unep.fr/ozonaction/library/mmc/lib_detail.asp?r=4050
- Standards and Codes of Practice to Eliminate Dependency on Halons: Handbook of Good Practices in the Halon Sector (2001) (in English)
http://www.unep.fr/ozonaction/library/mmc/lib_detail.asp?r=3125
- Planning, Designing and Implementing Policies to Control Ozone Depleting Substances under the Montreal Protocol: A Handbook of Policy Setting at the National Level (2003) (in English)
http://www.unep.fr/ozonaction/library/mmc/lib_detail.asp?r=3829
- Regulations to Control Ozone Depleting Substances: A Guide Book by UNDEP DITE, the Stockholm Environment Institute, and the Multilateral Fund for the Implementation of the Montreal Protocol (2000) http://www.unep.fr/ozonaction/library/mmc/lib_detail.asp?r=3801 (includes a review of laws, regulations, policies, and other measures to implement the Montreal Protocol in more than 50 countries around the world)
- ODS Import/Export Licensing Systems Resource Module: Phasing out ODS in Developing Countries (1998)
http://www.unep.fr/ozonaction/library/mmc/lib_detail.asp?r=2721
- Handbook on Data Reporting under the Montreal Protocol (1999)
<http://www.unep.fr/ozonaction/library/mmcfiles/2588-3.pdf>
- Training Manual for Customs Officers (2001) http://www.unep.fr/ozonaction/library/mmc/lib_detail.asp?r=3164 (describing the ozone lawyer and ODS; the international response; national strategies for phasing out ODS; prevention of illegal trade; measures to harmonise names, labeling, and packaging of ODS; identifying ODS, and training of customs officers)
- Handbook for the International Treaties for the Protection of the Ozone Layer (6th ed. 2003) (the 5th edition is available at <http://ozone.unep.org/Publications/index.asp> in English, French, and Spanish)
- Elements for Establishing Policies, Strategies and Institutional Frameworks for Ozone Layer Protection (1995) (available from ozonaction@unep.fr)
- Towards Methyl Bromide Phase Out: A Handbook for National Ozone Units (1999)

http://www.unep.fr/ozonaction/library/mmc/lib_detail.asp?r=2129

- Manual for Training of Extension Workers and Farmers: Alternatives to Methyl Bromide for Soil Fumigation (2001)
http://www.unep.fr/ozonaction/library/mmc/lib_detail.asp?r=3252
- Combating the Illegal Trade in Ozone Depleting Substances: A Guide for Enforcement Officers (2005)
<http://www.eia-international.org>
- Towards Full Compliance with the Montreal Protocol: A Tool-Kit of Policy Instruments for National Ozone Units (2004), available from ozoneinfo@unep.org

For the Rotterdam Convention on the Prior Informed Consent (PIC) Procedure:

- How to Become a Party to the Rotterdam Convention on the Prior Informed Consent (PIC) Procedure for Certain Hazardous Chemicals and Pesticides in International Trade
- Decision Guidance Documents (for various chemicals; available in English, French, and Spanish)
<http://www.pic.int/en/Table7.htm>

For the Stockholm Convention on Persistent Organic Pollutants (POPs):

- Ridding the World of POPs: A Guide to the Stockholm Convention on Persistent Organic Pollutants (2002, in the six UN languages)
<http://www.pops.int/documents/guidance/>
- Interim Guidance for Developing a National Implementation Plan for the Stockholm Convention (Rev'd ed. 2003, in five UN languages) <http://www.pops.int/documents/implementation/nips/guidance/default.htm>
- Various Guidelines relating to identification and management of chemicals covered by the Stockholm Convention (including dioxins, furans, PCBs, and pesticides)
<http://www.pops.int/documents/guidance/>

For the UN Framework Convention on Climate Change (UNFCCC):

- Understanding Climate Change: A Beginner's Guide to the UN Framework Convention (1994) <http://unfccc.int/resource/beginner.html> (providing a basic overview of the Convention and its rationale)
- UNFCCC Guidelines on Reporting and Review (1999) (in the six UN languages)
<http://maindb.unfccc.int/library/database=&screen=detail&mode=wim&language=en&%250=600001361>

- Good Practice Guidance and Uncertainty Management in National Greenhouse Gas Inventories (2000)
<http://www.ipcc-nggip.iges.or.jp/public/gp/english/>
- Good Practice Guidance for Land Use, Land-Use Change and Forestry (2004)
http://www.ipcc-nggip.iges.or.jp/lulucf/gp/lulucf_unedit.html
- Adapting to a Changing Climate in the Caribbean and South Pacific Regions: Guide to the Integration of Climate Change Adaptation into the Environmental Impact Assessment (EIA) Process (2004)
- UNEP Handbook for Legal Draftsmen on Environmentally Sound Management of Energy Efficiency and Renewable Energy Resources (2005)

For the UN Convention to Combat Desertification (UNCCD):

- Drafting Legislation for Sustainable Soils: A Guide, by Ian Hannam & Ben Boer, IUCN Environmental Policy and Law Paper No. 52 (2004)

For the World Heritage Convention (WHC):

- Operational Guidelines for the Implementation of the World Heritage Convention (in Arabic, English, French, and Spanish)
<http://whc.unesco.org/en/guidelines>

For the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention):

- The Aarhus Convention Implementation Guide (in English, French, and Russian)
<http://www.unece.org/env/pp/acig.htm> (see case study)
- Handbook of Good Practices in Public Participation at the Local Level (in English and Russian)
<http://www.unece.org/env/pp/newcastle.handbook.htm>
- Handbook on Access to Justice under the Aarhus Convention (2003) (in English)
<http://www.unece.org/env/pp/a.to.j/handbook.final.pdf>
- Implementing the Aarhus Convention: User Guides for Civil Society and for Officials in the Eastern Europe and Caucasus Region (in English and Russian)
<http://www.rec.org/REC/Programs/PublicParticipation/PublicAwareness/ecca.html>
- Developing and Delivering Training on the Aarhus Convention for Officials and for Civil Society: Manuals for Trainers (in English and Russian)
<http://www.rec.org/REC/Programs/PublicParticipation/PublicAwareness/ecca.html>

For the Espoo Convention (on EIA in a transboundary context) and its Protocol on Strategic Environmental Assessment (SEA):

- Guidance on the Practical Application of the Espoo Convention (in English, Russian, and German)
<http://www.unece.org/env/eia/slideshows.html>
- Guidance on Public Participation in Environmental Impact Assessment in a Transboundary Context (in English and Russian)
http://www.unece.org/env/eia/publicpart_guidance.htm
- Guidance on Subregional Cooperation (in English and Russian)
http://www.unece.org/env/eia/subregional_coop.htm
- Guidelines for Incorporating Biodiversity-Related Issues into Environmental Impact Assessment Legislation and/or Processes and in Strategic Environmental Assessment (in English; in conjunction with the CBD)
http://www.unece.org/env/eia/documents/links_between_conventions/decisionvi7of6thcopofcbd.pdf
- Public Participation in Strategic Environmental Decisions: Guide for Environmental Citizens Organizations by European ECO Forum
http://www.participate.org/publications/PP_in_strategic.pdf



MEAs AND TOURISM IN SEYCHELLES

Seychelles is a group of small tropical islands, and the tourism industry has always posed a huge challenge. At an early stage, policymakers became aware that the natural uniqueness of Seychelles is the core attraction for Seychelles's tourism industry and subsequently its economic base. The only possibility to profit from this resource without destroying it was through sustainable development. Therefore, the tourism sector constitutes one of the 10 thematic areas of the EMPS [http://www.pps.gov.sc/enviro/EMPS_2000-2010.pdf or the case study on "Incorporating MEAs into the Environment Management Plans of Seychelles" following Guideline 39 for more information on Seychelles's EMPS process], and there is an emphasis on ecotourism and sustainability.

Today, any tourism development is subject to the Environment Protection Act and the Town Country Planning Act. An Environmental Impact Assessment is mandatory for all tourism projects, as requested under the Convention on Biological Diversity (CBD), and these assessments screen the project details and encourage public consultations before and during the project's implementation.

In a consultative process with all the stakeholders from the public and private sectors, the Ministry of Tourism and Transport developed VISION 21, which is a "road map" that presents a strategic vision for tourism development in Seychelles. While it is a

MEAs and Tourism in Seychelles (cont'd)

key component of the State's development strategy, VISION 21 also has an explicit "commitment to the protection and conservation of the natural environment and biodiversity." VISION 21 mandated the development of a Seychelles Ecotourism Strategy (SETS 21), which was launched in 2003. At the 7th CBD COP, Decision VII/14 adopted Guidelines on Biodiversity and Tourism Development. When developing SETS 21, Seychelles considered the CBD guidelines as a basis, while adapting them in the specific national context of Seychelles. SETS 21 provides for implementation of pilot projects, which will test the applicability of the Guidelines on Biodiversity and Tourism Development, as requested under VII/14. Additionally, under SETS 21, local communities will be provided with capacity-building and financial resources to increase their involvement in tourism policymaking, development planning, product development, and management.

For more information, see <http://www.tourism.gov.sc> or contact Frauke Fleischer-Dogley FFDogley@tourism.sc, Marc Marengo Mmarengo@tourism.sc, or Michel Nallentamby dgt@tourism.sc



IMPLEMENTATION GUIDE TO THE AARHUS CONVENTION

To assist in the effective implementation of the UNECE Convention on Access to Information, Public Participation in Decisionmaking and Access to Justice in Environmental Matters (or the "Aarhus Convention"), the UNECE, the Regional Environmental Center for Central and Eastern Europe (REC), the Environmental Law Institute, and the Danish Environmental Protection Agency collaborated to produce an Implementation Guide to the Aarhus Convention. It was aimed simultaneously at policymakers and politicians responsible for transposing the Convention into national systems, in the context of varying national legal systems, as well as at public authorities and their advisers faced with carrying out the Convention's obligations.

The Implementation Guide provides both a general overview and a detailed article-by-article analysis of the Convention [in fact, the Implementation Guide inspired format of the current UNEP Manual]. The general overview gives the policy background and describes the Convention's structure, its main obligations, and options for implementation. To help policymakers, public authorities, and members of the public, the Guide analyses each provision to help understand the clearly fixed obligations of the Convention, as well as the obligations that allow some flexibility and options for implementation in each case. The Guide is also meant to serve as a reference for the public authority or adviser faced with a specific problem of implementation or interpretation. It may also be useful to others, including the various stakeholders who may wish to use the rights found in the Convention to participate actively in environmental protection.

The Guide can be found in English and Russian at <http://www.unece.org/env/pp/acig.htm>



GUIDELINES, MANUAL, AND HANDBOOKS ON IMPLEMENTATION OF THE RAMSAR CONVENTION

The Secretariat of the Ramsar Convention on Wetlands has prepared a range of guidance documents to assist States and various stakeholders in implementing the convention. These include: guidelines, a series of handbooks, and a manual.

Guidelines for Implementing the Ramsar Convention

In order to assist States in implementing the Ramsar Convention, the Ramsar Secretariat has produced guidelines for management planning of designated Ramsar sites and other wetlands. The guidelines provide advice on incorporating good practice in management planning. These good practices include:

- adaptive management;
- integrated monitoring;
- environmental, social, and economic impact assessment;
- cost-benefit analysis;
- zoning and multiple use;
- design and maintenance of buffer zones; and
- application of the precautionary approach.

Other elements of the guidelines address monitoring programmes; wetland risk assessment framework; assessing and reporting change in ecological character; applying the Montreux Record “tool” of the Convention (see the case study following Guideline 14(d)); and designing restoration programmes.

The guidelines focus particularly on issues relating to site-based management planning. It is recognised, however, that designated Ramsar sites include a wide range of different “sites”, ranging in size from less than 1 hectare to over 6 million hectares. Moreover, some sites have clearly delimited boundaries entailing simply a discrete wetland area, while others include surrounding non-wetland buffer zones, habitat mosaics, or catchment areas within their boundaries. Accordingly, the guidelines recognise that site-based management planning should be one element of a multi-scalar approach to wise-use planning and management and should be linked with broader-scale landscape and ecosystem planning, including at the integrated river basin and coastal zone scales. This is necessary since broad-scale policy and planning decisions affect the conservation and sustainable use of wetland sites.

The guidelines are available at

http://www.ramsar.org/lib/lib_handbooks_e08pre.doc

The Ramsar Handbook Series

The Ramsar Handbook series on the wise use of wetlands is a collection of 14 volumes. Each set of 14 volumes is available in English, French, and Spanish. The series includes all of the guidelines that have been adopted so far by the Conference of the Contracting Parties

Guidelines, Manual, and Handbooks on Implementation of the Ramsar Convention (cont'd)

in order to assist Parties in their implementation of the Convention and its principle of wise use. The existing handbooks address:

- Handbook 1: Wise Use of Wetlands
- Handbook 2: National Wetland Policies
- Handbook 3: Laws and Institutions
- Handbook 4: River Basin Management
- Handbook 5: Participatory Management
- Handbook 6: Wetland CEPA - The Convention's Programme on Communication, Education and Public Awareness (CEPA) 2003-2008
- Handbook 7: Designating Ramsar Sites
- Handbook 8: Managing Wetlands
- Handbook 9: International Cooperation
- Handbook 10: Wetland Inventory
- Handbook 11: Impact Assessment – Guidelines for Incorporating Biodiversity-Related Issues into Environmental Impact Assessment Legislation and/or Processes and in Strategic Environmental Assessment
- Handbook 12: Water Allocation and Management
- Handbook 13: Coastal Management
- Handbook 14: Peatlands – Guidelines for Global Action on Peatlands

The Handbooks will be further up-dated in the near future to incorporate the latest decisions and guidance of the Ninth Meeting of the Conference of the Parties, which took place in 2005. Adopted resolutions can be downloaded from http://www.ramsar.org/res/key_res_ix_index_e.htm. The Handbooks are available on a CD-ROM from the Secretariat and on the Ramsar Web page http://www.ramsar.org/lib/lib_handbooks_e.htm

Ramsar Manual

To assist Parties and other interested stakeholders in the understanding of key aspects of the Ramsar Convention processes and mechanisms, the Ramsar Manual was first compiled by T.J. Davis and published in 1994. The Manual reviews the various Ramsar resolutions, guidelines, and terminology. It quickly became out-dated because of the work completed by the Conference of the Contracting Parties at its 6th Meeting, in 1996; accordingly, a second edition was published in 1997.

The third (and latest) edition was produced in 2004 is available at <http://www.ramsar.org/>



LEGISLATIVE GUIDANCE TO IMPLEMENT THE OZONE MEAs

The Ozone Secretariat and UNEP have developed a variety of reference materials to assist States in developing legislation to implement the Vienna Convention and the Montreal Protocol, as well as the various related amendments. Some of these documents include:

- Methyl Bromide Phase-Out Strategies: A Global Compilation of Laws and Regulations (1999) (more than 90 States)
- Update of Regulations to Control ODS (2000) (58 developed and developing countries)
- Status of Legislation in Article 5 Countries Assisted by UNEP

All of these documents are available at <http://www.uneptie.org/ozonaction/library/policy/main.html#network>

Regional or Sub-Regional Action Plans to Implement MEAs

- [34]** (f) *Developing regional or subregional environmental action plans or strategies to assist in the implementation of multilateral environmental agreements;*

Given that States within a particular geographic region or sub-region often share many of the same challenges and concerns when it comes to implementing a particular MEA, implementation action plans that are created by and for that particular region or sub-region can be extremely helpful.

One example of an MEA where this suggestion could be readily applicable and relevant is the UN Convention to Combat Desertification (UNCCD). The Convention contains regional implementation annexes specifically for Africa, Asia, Latin America and the Caribbean, the Northern Mediterranean and Central and Eastern Europe. The development of Regional Plan of Action is not expressly envisaged under the Convention; but it expressly calls for the development of National Action Plan. Cooperation among States of specific regions addressed in the annexes can expedite the development of national plans, as the Parties of each region will have common responsibilities and obligations.

The Convention on the Conservation of Migratory Species of Wild Animals (CMS) is another MEA that relies on regional and sub-regional initiatives for its effective implementation.

In addition to the examples below, see Guideline 46 and particularly the case study on CCAD. Guideline 11 also identifies some regional approaches, including regional agreements. Guideline 49(d) and the accompanying case studies survey a variety of regional centres that frequently work closely with the regional action plans.



LEGISLATIVE GUIDANCE TO IMPLEMENT THE BIODIVERSITY MEAs

The Conference of the Parties of the CBD has encouraged Parties to develop regional, sub-regional, and bio-regional mechanisms and networks to support implementation of the Convention. Some of the approaches include the development of regional or sub-regional strategies and action plans, the identification of common constraints and impediments to implementation, and the promotion of joint measures for addressing these (see e.g. decision VI/27A). Notable examples of such regional and sub-regional frameworks include the Pan-European Biological and Landscape Diversity Strategy, the Strategic Plan on Biodiversity for Tropical Andean Countries, the Central American Commission on Environment and Development (CCAD), and the Pacific Regional Environment Programme (SPREP).

For more information, see <http://www.biodiv.org> or contact secretariat@biodiv.org

Legislative Guidance to Implement the Biodiversity MEAs (cont'd)

Pan-European Biological and Landscape Diversity Strategy (PEBLDS)

The Pan-European Biological and Landscape Diversity Strategy (PEBLDS), endorsed in 1995 at the Third Environment for Europe Ministerial Conference, is a response to support implementation of the CBD in the pan European region. The Strategy is not a legally binding instrument, but it does provide a coordinating and unifying framework for strengthening and building on existing initiatives, as well as a framework for relevant actions at the national level and promoting regional cooperation. It does not aim to introduce new legislation or programmes, but to fill gaps where initiatives have not been implemented to their full potential or fail to achieve desired objectives. Furthermore, the Strategy seeks to more effectively integrate ecological considerations into all relevant socio-economic sectors, and will increase public participation in, and awareness and acceptance of, conservation interests.

At the Fifth Environment for Europe Ministerial Conference in 2003, the Ministers of Environment and Heads of Delegations of the States participating in the Pan-European Biological and Landscape Diversity process endorsed the Resolution on Biodiversity and agreed to halt the loss of biological diversity at all levels by 2010. The Resolution is a response to the 2010 target of the CBD and the outcome of the World Summit on Sustainable Development. The Ministers committed to achieving nine specific sub-targets through national efforts and regional cooperation in the key areas of forests and biodiversity, agriculture and biodiversity, the Pan-European Ecological Network, invasive alien species, financing of biodiversity, biodiversity monitoring and indicators, and public participation and awareness. The PEBLDS has now adopted seven action plans for implementation of activities to achieve the sub-targets in the pan European region with special focus on Eastern Europe, the Balkans, the Caucasus, and Central Asia.

For more information, see <http://www.strategyguide.org> or contact secretariat@strategyguide.org



PACIFIC ISLAND COUNTRIES' REGIONAL STRATEGY FOR IMPLEMENTING THE MONTREAL PROTOCOL

In the late 1990s, the small island countries of the Pacific region had not yet fully implemented their commitments under the Montreal Protocol for several reasons, including their relatively late ratification of the Protocol and the priority of other environmental issues (such as climate change). Under an innovative UNEP-facilitated approach, a sub-regional grouping of Pacific Island Countries — Kiribati, Marshall Islands, Federated States of Micronesia, Solomon Islands, Tonga, Tuvalu, Palau, and Vanuatu — proposed a total compliance plan for the entire sub-region. This simultaneous, sub-regional approach was seen as preferable to the usual sequential formulation of national implementation plans (“Country Programmes”) followed by institutional strengthening and project activities. They developed an umbrella regional strategy and associated national implementation plans to phase out ozone depleting substances (ODS) under the Montreal Protocol.

Under the Regional Strategy, the major activities are:

- Establishment of the focal points for this MEA: National Ozone Units/National Compliance Centres (NOUs/NCCs) (see case study in Guideline 24);
- Development of national ODS regulations;
- Compliance by all Parties in reporting ODS consumption data to the Ozone Secretariat, Multilateral Fund Secretariat, and progress reporting to SPREP (see case study in Guideline 14(c));
- Training of customs officers (see Guidelines 41(b), 43(b), and 49);
- Training of refrigeration technicians, through “train-the-trainer” programmes on good practices in refrigeration (see Guidelines 42, 43 and 49);
- Purchase of recovery and recycling equipment for core countries as identified after technician training;
- Regional thematic meeting on implementation of the Regional Strategy; and
- Public awareness activities (see Guidelines 30-31 and 44).



[14(c)]

[24]

[30-31]

[41(b)]

[42]

[43]

[43(b)]

[44]

[49]

The regional strategy emphasises sharing of information and experience among officers and agencies responsible for implementing the national programmes to comply with the Protocol. The strategy also seeks to improve import control mechanisms, trade monitoring by customs officers, and training of refrigeration servicing technicians to minimize ODS emissions.

The Strategy for the Pacific Island Countries was achieved with financial assistance and technical support from the Protocol’s Multilateral Fund, the UNEP/DTIE OzonAction Programme, the Pacific Regional Environment Programme (SPREP), and the Governments of Australia and New Zealand.

For more information, contact sprep@sprep.org.ws or Mr. Thanavat Junchaya (UNEP/ROAP) at junchaya@un.org



REGIONAL PLANNING FOR ADAPTATION TO CLIMATE CHANGE IN THE CARIBBEAN

The Caribbean Planning for Adaptation to Climate Change (CPACC) supported Caribbean countries in preparing to cope with the adverse effects of global climate change, particularly sea level rise in coastal and marine areas. It pursued these goals through: vulnerability assessment, adaptation planning, and capacity building for adaptation planning.

The CPACC was implemented through a collaborative effort of 12 CARICOM countries and partner institutions over a four-year period, ending in 2001. It included national pilot projects and regional initiatives. The GEF provided funding, through the World Bank, and the Organization of American States (OAS) executed the project. The project is coordinated in the Caribbean through the Regional Project Implementation Unit (RPIU), which was established by the University of the West Indies (UWI) Centre for Environment and Development. The CPACC web site includes numerous case studies and success stories.

For instance in St. Lucia, the CPACC and the Project on the National Communications for Climate Change helped to convince the media and the insurance industry of the importance of climate change. The Insurance Council hosted a national seminar to educate its members on the impacts of climate change on their industry. The media houses — whether print, radio, or television — are now always eager to obtain information on climate change and how it affects St. Lucia.

The CPACC was only the first step to assist the 12 Caribbean countries in meeting their obligations under the UNFCCC. It generally focused on planning for adaptation to Climate Change and in one State, St. Vincent, it helped in completing the first National Communication on Climate Change. A significant aspect of this planning for adaptation through the CPACC Project was the formulation of national climate change adaptation policies, two of which have been signed by the St. Lucia and Dominica Cabinet of Ministers. The draft plans for the other 10 countries have yet to be ratified by their cabinet of ministers.

This CPACC project has been followed by two other projects: ACC (Adapting to Climate Change) which was financed by the Canadian International Development Agency and served as a bridging project to the second project – MACC (Mainstreaming Adaptation to Climate Change). MACC is ongoing and is due to be completed by 2007.

As part of the MACC, a Caribbean Community Climate Change Centre (CCCCC) has been established and is located in Belize to serve the 12 Caribbean nations under the MACC Project and to continue doing so after the conclusion of the MACC in 2007. The main goal of the Centre is to improve the ability of people living in communities at risk from climate change-related phenomena to adopt more sustainable lifestyles. The establishment of the Centre was endorsed by the Caribbean Community (CARICOM) Heads of Government in July 2002.

Regional Planning for Adaptation to Climate Change in the Caribbean (cont'd)

For more information on CPACC, see <http://www.cpacc.org>

For more information on the CCCC, contact Dr. Kenrick Leslie at

k.leslie@sbcglobal.net (the website for the CCCC is expected to be online soon).



REGIONAL RESPONSES TO INVASIVE ALIEN SPECIES

Between 1999 and 2004, a series of eight regional workshops around the world on invasive alien species was convened by the Global Invasive Species Programme (GISP) and three of its partners: the World Conservation Union (IUCN), CAB International (CABI), and the International Centre of Insect Physiology and Ecology (ICIPE). UNEP and other organisations co-sponsored the workshops. Through these workshops, the different regions were able to develop regional approaches to address invasive alien species, which tied in to the ongoing dialogue on the most appropriate nature for a global response.

The regional workshops raised awareness of the problems of invasive alien species as well as opportunities on how to best respond. They allowed regional participants to assess the current status of the problem in the region and to forge cooperation within and between nations. And they laid the groundwork for development of regional strategies on invasive alien species. The workshops identified priority short-term and long-term actions in various sectors (legal, capacity building, awareness raising, etc.). They also generated momentum for further action at the regional level through findings, recommendations, and declarations.

For more information, see <http://www.gisp.org/downloadpubs/FAgisptechbrochure.pdf> or contact jackson@sanbi.org



ACTION PLAN OF THE ENVIRONMENT INITIATIVE OF NEPAD

In anticipation of the World Summit on Sustainable Development, African leaders developed and launched the New Partnership for Africa's Development (NEPAD). The Organization of African Unity (OAU) formally adopted NEPAD in July 2001. NEPAD seeks to provide a broad policy framework for addressing the priority challenges in Africa, including sustainable development, eradication of poverty, empowerment of women, and integration into the global economy.

The Action Plan of the Environment Initiative provides an environmental policy framework for addressing environmental issues in Africa, including implementation of MEAs. The Action Plan was developed in a consultative and participatory process with African experts by NEPAD together with the African Ministerial Conference on the Environment (AMCEN), UNEP, and GEF. The African Union adopted the Action Plan in July 2003.

The Action Plan links two defining features of Africa — poverty and environment — recognising the common and shared sustainable development problems and concerns in the different States of the continent. This regional action plan, covering the first decade of the 21st century, promotes Africa's sustainable development and therefore takes a long-term approach. It emphasises processes, projects, and related activities that enlarge Africa's economic prospects through sustainable environmental management.

The Action Plan integrates economic growth, income distribution, poverty eradication, social equity, and better governance. It covers eight sectors, many of which are already the subject of various MEAs: combating land degradation; drought and desertification; wetlands; invasive species; marine and coastal resources; cross-border conservation of natural resources; climate change; and cross-cutting issues. Indeed, one of the specific objectives of the Action Plan is to support the implementation by African States of their commitments under the global and regional environmental agreements to which they are party.

From 20- 25 September 2004 UNEP organized a NEPAD Orientation and Training Session in Nairobi, Kenya, which brought together more than 60 participants representing African Governments, the African regional economic communities, the African Union, the United Nations Economic Commission for Africa, civil society and resource persons. The five-day training session covered a wide range of topics including an overview of the Action Plan for the Environment Initiative of NEPAD; a UNEP/GEF medium-size project on capacity building to develop sub-regional environmental action plans; UNEP's initiatives on environmental management; environment programmes of the regional economic communities; MEAs; GEF as a financial mechanism; case studies on synergies in implementing MEAs; and the AMCEN Programme of Work for 2004/06.

For more information, see

<http://www.environment-directory.org/nepad/home/index.asp>

or **<http://www.nepad.org>** or contact **Estherine.Lisinge-Fotabong@unep.org** *For more information on AMCEN, see the case study following Guideline 11(b)*



[11(b)]



REGIONAL GUIDANCE ON IMPLEMENTING MEAs IN CENTRAL AMERICA

In Central America, the Central American Commission on Environment and Development (known by its Spanish acronym CCAD) has formulated regional guidelines and models for environmental legislation, including legislation that implements MEAs. CCAD's Environmental Law and Policy Program has utilised various approaches to harmonise the implementation, compliance, and enforcement of MEAs and Laws. For example, CCAD facilitated the development and adoption of regional Protocols on access to genetic resources and on biosafety. CCAD has also developed Guidance for application of CITES, as well as a Model for Waste Water Standards.

In developing these instruments, CCAD has facilitated the intersectoral participation of a range of national authorities, including those addressing public health, water, and agriculture. These instruments were developed through Technical Committees, which included experts from the Environmental Ministries. After the consultation process, the proposals are submitted to the Council of Ministries, the higher authority of CCAD.

The regional protocols, standards, and guidelines provide guidance to the Member States when they develop the relevant national laws and regulations. Through this process, Central American States have been able to harmonise a number of environmental laws at the regional level.



[46]

For more information, see <http://www.ccad.ws>; see also the case study on "Harmonization of Environmental Laws in Central America," following Guideline 46.



PREPARING A REGIONAL STRATEGY FOR IMPLEMENTATION OF THE RAMSAR CONVENTION IN LATIN AMERICA

In order to facilitate implementation of the Ramsar Convention on Wetlands, the Ramsar Secretariat encourages the preparation and implementation of regional and subregional strategies. During the Second Pan-American Ramsar Convention Meeting (in 2002) a Contact Group was established to promote actions that benefit conservation and sustainable management of the distinctive wetlands of the High Andean mountains. The Contact Group comprised the Ramsar focal points of seven Andean States — Argentina, Bolivia, Colombia, Chile, Ecuador, Peru, and Venezuela — as well as Costa Rica, which was included for its Páramo ecosystems. In addition, international organisations working on wetlands issues (including IUCN, WWF, Wetlands International, and Birdlife International) became part of this initiative, as did the Ramsar regional training centre (CREHO) and two technical networks (the International Working Group on Páramos (Grupo Páramo) and the High Andean Flamingos Conservation Group (GCFA)).

The Contact Group prepared a draft Resolution on High Andean wetlands, which was approved at the Ramsar COP 8 in 2002 (Resolution VIII.39). This Resolution is related to and complements other Resolutions (e.g., VIII.5, VIII.11, VIII.12, and VIII.17) approved at the same COP.

In order to enhance and coordinate such efforts and to promote the implementation of Resolution VIII.39, a workshop was organised in 2004 by the Contact Group, the Ramsar Convention Secretariat, and the IUCN Regional Office for South America. This workshop sought to develop agreement on guidelines and elements to compose a joint strategy for the conservation and sustainable use of the High Andean wetlands, design the basis for an action plan, and create a regional platform for cooperation, information, and exchange of best practices. Following the workshop, a discussion by e-mail refined the draft strategy, which was then presented and modified during working sessions at the Third Pan-American Ramsar Convention Meeting (in 2004). In 2005, the Contact Group finalised the strategy at a workshop, and the strategy was adopted by the COP 9 in 2005.

The basic structure of the strategy includes a situational analysis, a conceptual framework (mission, vision, principles, scope, and objectives), and several action proposals that represent the work plan that will guide the strategy implementation.

The full text of the strategy can be obtained from http://www.ramsar.org/cop9/cop9_doc26_e.htm?bcsi_scan_EC783A0C3C997A81=I5XUKZNL3qLQCP2ljuwJIAYAAA B4NjcA&bcsi_scan_filename=cop9_doc26_e.htm

Additional information about the strategy can be obtained from Ramsar's Senior Advisor for the Americas, Ms. Margarita Astrálaga astralaga@ramsar.org



REGIONAL BIODIVERSITY STRATEGY FOR THE TROPICAL ANDEAN STATES

To assist in implementing the Convention on Biological Diversity (CBD) in the Andean region, the five Member States of the Andean Community (Bolivia, Colombia, Ecuador, Peru, and Venezuela) adopted a Regional Biodiversity Strategy for the Tropical Andean States. The Strategy sets forth approaches for collaboratively conserving and sustainably using ecosystems, species, and genetic resources; equitable sharing of benefits; protection and nurturing of traditional knowledge; development of scientific knowledge, innovations, and technologies to conserve and sustainably use biodiversity; integrate biodiversity conservation into sectoral policies and development projects, and strengthening of international negotiation capabilities.

For more information, see

<http://www.comunidadandina.org/ingles/normativa/Decision523e.pdf>



FRAMEWORK CONVENTION ON THE PROTECTION AND SUSTAINABLE DEVELOPMENT OF THE CARPATHIANS

From the beginning of negotiations, the Framework Convention on the Protection and Sustainable Development of the Carpathians took into account the relevant provisions of global, regional, and subregional environmental legal instruments, strategies, and programmes, with the aim to ensure a more thorough implementation of the existing instruments in the Carpathian region.

As a base for negotiations, a thorough study was carried out. This study explored existing regional instruments and programmes for all socio-economic sectors relevant to the Carpathians. It identified gaps in transboundary cooperation, as well as the main needs and opportunities for enhancing transboundary cooperation. It analysed existing cooperative programmes and projects, made recommendations to further support these programmes and projects, and assessed the existing instruments and programmes that addressed the various sectors. It also examined the issue of whether there were any benefits to developing a new convention.

The resulting Carpathian Convention aims to put the principles of sustainable development to work at the regional level. The Carpathian Convention supports the effective implementation of MEAs for sectors where such MEAs exist (e.g., biodiversity and river basin management) by integrating, complementing, and translating them into policy objectives specifically adapted to the context of the Carpathian mountain region, which extend over the territories of both the European Union and neighbouring Eastern European States. For other sectors that are not covered by MEAs (e.g., sustainable forestry, sustainable tourism, etc.), joint strategies or future protocols to be developed under the Framework Convention might well serve as an inspiration for future Pan-European or other approaches.

Framework Convention on the Protection and Sustainable Development of the Carpathians (cont'd)

The Carpathian Convention was adopted after less than two years of negotiations, and it entered into force on 4 January 2006.

For further information, see <http://www.carpathianconvention.org> or contact harald.egerer@unvienna.org.



REGIONAL AGREEMENTS IN CENTRAL AMERICA

Central American States have adopted a number of regional environmental agreements designed to facilitate the implementation of global MEAs and to address regional environmental priorities. Central American treaties include those on:

- Conservation of Biodiversity and Protection of Priority Wild Areas in Central America;
- Regional Convention on Climate Change;
- Regional Agreement on the Transboundary Movement of Hazardous Wastes; and
- Convention on the Management and Conservation of Natural Ecosystems, Forests, and the Development of Tree Farms.

All Central American States have signed and ratified these agreements.

As a result of these regional agreements, the Central American Commission on Environment and Development (known by its Spanish acronym CCAD) has created Technical Committees that include representatives of each Central American State. These Committees meet periodically to ensure ongoing compliance with the agreements.

The advantage of these regional agreements is that they complement the international agreements, there are many synergies with the respective MEAs since the CCAD Technical Committees (and Focal Points) are the same for monitoring and compliance of the corresponding regional agreement and MEAs. The Executive Secretariat of CCAD coordinates meetings, agendas, and regional positions to the regional and international environmental forums. This enables Central American States to participate in COPs as a regional group, rather than as isolated countries.

For more information, see <http://www.ccad.ws> or contact CCAD at magonzalez@sgsica.org, rrodriguez@sgsica.org, and snieto@sgsica.org; also see the case study on "Regional Guidance on Implementing MEAs in Central America" (above).



MERCOSUR SPECIALIZED WORKING GROUP #6

In the southern cone of South America, the Common Market of the South (MERCOSUR) is a regional organization designed to facilitate integration. MERCOSUR's Specialized Working Group #6 addresses environmental and sustainable development issues.

Specialized Working Group #6 meets regularly through ordinary meetings, extraordinary meetings, and ministerial meetings. For example, in 2005, there were three ordinary meetings, one extraordinary meeting, and two meetings of MERCOSUR Environment Ministries.

The Working Group addresses a wide range of issues. These include, for example, desertification, biodiversity, competitiveness and the environment; implementation of various MERCOSUR instruments relating to the environment; wildlife management; forest management; waste management; air quality; water resources and water quality management; and environmental health.

The Working Group organises seminars and briefings on particular topics. When there are upcoming Conferences of the Parties and other negotiating meetings, the Working Group helps to brief its Member States on the key issues, facilitating the development of common negotiating positions.

For more information, contact asin@mma.gov.br or see

<http://www.mma.gov.br/index.php?ido=conteudo.monta&idEstrutura=2&idMenu=623>

Increasing Awareness of MEAs to Enhance Participation

[34] (g) *Fostering awareness among non-parties about the rights, benefits and obligations of becoming a party to a multilateral environmental agreement and inviting non-parties as observers to meetings of decision-making bodies under multilateral environmental agreements to enhance their knowledge and understanding of the agreements;*

Because of the uniquely global nature of most environmental problems addressed by MEAs, these agreements' effectiveness is greatly enhanced by increases in the number of States who become Parties. In the same vein, MEAs benefit from having those states that attend meetings as non-Party observers to be fully informed and educated on the agreement's rights, benefits, and obligations.

Cooperative international efforts to increase awareness of a how an MEA functions and the advantages to be derived from its implementation are thus highly desirable. Parties can work together to inform and educate non-Parties in this regard. Moreover, international organisations such as convention secretariats and UNEP can assist in such efforts, particularly when instructed to do so by their governing bodies.

The precise relationship between Parties and non-Parties depends on the particular agreement. For example, CITES allows Parties to trade with non-Parties to the Convention, provided those non-Parties have competent authorities and use comparable documentation.

In addition to the examples below, see the case studies on "Approaches for Financial and Technical Assistance..." (following Guideline 33) (particularly the discussion of the Finnish Trust Fund); "Transboundary EIA Guidelines around the Caspian Sea" (following Guideline 49(b)); "Assistance to New Parties to the Ramsar Convention" (following Guideline 33) (which highlights engagement of non-Parties in ongoing Ramsar activities); "Involving Non-Parties in CMS Subsidiary Agreements and MOUs" (following Guideline 11(d)).


[11(d)]
[33]
[49(b)]



ENCOURAGING NON-PARTIES TO RATIFY THE MONTREAL PROTOCOL

While the UNEP/DTIE OzonAction Programme and the Ozone Secretariat have different roles and responsibilities (the former assists developing countries and countries with economies in transition to implement the provisions of the Montreal Protocol and the latter serves as the Secretariat of the Vienna Convention and Montreal Protocol), the two institutions combined resources to encourage non-Parties to ratify the Montreal Protocol.

Under a coordinated and targeted approach called "Project 2002," the two entities identified and worked with the remaining developing countries that had not ratified, approved, or acceded to the Vienna Convention and the Montreal Protocol and its Amendments. This approach included:

- Explaining economic, trade, and other implications of ratifying or not ratifying the treaties and amendments to key Government officials.
- Obtaining financial support so that non-Party countries could participate in meetings of Regional Networks of ODS officers (see case study in Guideline 34(c)), providing constructive "peer pressure" from other countries to encourage them to ratify and participate in the implementation process.
- Undertaking missions (including by UNEP Regional Directors and OzonAction staff) to non-Party countries to discuss ratification with high-level Government officials.
- Information support related to ratification, including explanation of procedures.



Another innovative mechanism for encouraging non-Parties in developing countries to ratify is the Finnish Ozone Trust Fund, which was established in 1991 under the Ministry for Foreign Affairs of Finland. This fund provided assistance through country-specific studies, training, networking, and information exchange to facilitate and expedite the countries joining the Montreal Protocol. This programme was in addition to Finland's contribution to the Multilateral Fund and was conducted through a cooperative arrangement with the OzonAction Programme.

For more details, see

http://www.unep.fr/ozonaction/library/mmc/lib_detail.asp?r=3769

In part due to the above measures, as of August 2006 the only non-Parties to the Montreal Protocol were Equatorial Guinea, East Timor, and Iraq.



PROMOTING IMPLEMENTATION OF THE AARHUS CONVENTION IN UZBEKISTAN (A NON-PARTY)

Although Uzbekistan has not signed the Aarhus Convention, the State has undertaken many measures to promote its implementation. After the conclusion of the Aarhus Convention, the Government distributed copies of the Convention's text to raise awareness about its provisions for promoting public access to information, public participation in decisionmaking, and access to justice. With support from the Center of the Organization for Security and Co-operation in Europe (OSCE) and the American Bar Association, the State Committee for Nature Protection held approximately 30 seminars and roundtable discussions around the country to raise public awareness of the Convention and about environmental democracy more generally.

The Government has started to apply provisions of the Convention to increase public participation in regulatory development. For example, the Urban Building Code was developed and adopted pursuant to the Convention's procedural requirements for participatory decisionmaking.

The Government of Uzbekistan has also established a Center for Ecological Information to meet the needs of the public regarding information on ecological conditions. While Uzbekistan is not a party to the Aarhus Convention, the Government considered various provisions of the Convention promoting public access to environmental information when it established the Center. While the Center is still in its early stages of operation, it started undertaking various actions to promote public participation and access to information long before its official opening.

For more information, contact envconf@uzsci.net

Enhancing Cooperation among MEA Secretariats

- [34]** (h) *Enhancing cooperation among multilateral environmental agreement secretariats, if so requested by the parties to the respective multilateral environmental agreements.*

Given the potential for synergies and cooperative efforts among the MEAs, the Secretariats supporting these conventions can achieve much more when they work together. Calls for MEA Secretariats to coordinate their efforts in order to avoid duplication of efforts and take advantage of potential synergies have become more frequent lately, but coordination efforts date back at least a decade.

UNEP has been active in this area, given the number of MEA Secretariats it supports and its expertise as the UN body charged with environmental matters generally. In 1993, UNEP's Governing Council directed UNEP "to promote the coherent coordination of the functioning of environmental conventions, including their Secretariats, with a view to improving the effectiveness of the implementation of the Conventions" (Decision 17/25). This directive was founded on a call for action to the same effect provided in chapter 38 of Agenda 21. These activities are described in more detail below.

The large number of MEAs can result in institutional coordination challenges as different authorities and institutions assume responsibility for implementing different but related MEAs. Similarly, it is interesting to note that coordination problems at the national level can sometimes cause coordination problems at the international level, as the process of international consensus building often builds upon national approaches and institutions. As such, in certain instances, there is a need to promote synergies and coordination at the international and national levels. [Guideline 42 addresses institutional coordination at the national level in more detail.]



With respect to improving coordination among MEA Secretariats, there are three key reasons for promoting synergies and inter-linkages in MEA development and implementation:

- the growth in the number of environmental issues that countries face, the complexity of those issues, and the number of existing MEAs that seek to respond to those issues;
- the national-level challenge for most countries in meeting their obligations under the MEAs (particularly the lack of human and financial resources of developing countries to implement MEAs); and
- many of these needs can be met in full or in part through synergies among MEAs that currently are underutilised.

UNEP has recognised this and, through various decisions, has called for studies, pilot projects, and initiatives to improve the implementation of MEAs by paying particular attention to synergies and inter-linkages. As a result, UNEP and some COPs of MEAs — as well as UNDP and UNU, among other UN bodies — have undertaken a number of innovative ini-

tiatives to promote synergies. For example, the National Capacity Self-Assessment (NCSA) process [described following Guideline 41(n)] explicitly encourages States to consider synergies among MEAs, particularly the UNFCCC, CBD, and UNCCD.

Measures to Improve Coordination and Cooperation among the MEA Secretariats

In responding to Parties' requests to improve coordination and cooperation among the MEA Secretariats, there are a number of practical measures that have been undertaken. These measures generally take advantage of the synergies among the MEAs on specific issues. Many of these measures address specific obligations that States have under the agreements, for example to develop implementing legislation, to establish or designate responsible institutions, to collect information and report, and so forth.

Accordingly, there are a number of practical ways that MEA Secretariats can collaborate to facilitate compliance, implementation, and enforcement of their agreements. This cooperation may be general (at the international level) or applied in a particular context (e.g., at the national level). Some of the possible measures by which MEA Secretariats can improve their cooperation and coordination include:

- Establishing informal and formal frameworks for *exchanging information*. For example, this may include participating in one another's Conferences of the Parties, at the invitation of the particular COP.
- Developing *joint projects and work plans*, where there is common concern.
- Developing common reporting formats for the national reports of related MEAs, consistent with the requirements of each MEA. Common formats, for example for biodiversity MEAs, could take advantage of synergies and reduce the burden on all States (but particularly developing countries) to prepare the required national reports. For example, UNEP and UNEP-WCMC have been undertaking a project to harmonise reporting in four pilot countries and have developed recommendations on the basis of the outcomes of these projects. [See case study.]
- Developing *regional centres* that have responsibility for building capacity and providing technical advice for implementation of related MEAs. While separate agreements would need to be developed between such a centre and each MEA Secretariat, in practice such a regional centre could help States in the region to take advantage of synergies between and among MEAs. For example, the Pacific Regional Environment Programme (SPREP) hosts the Waigani Convention Secretariat and the Pacific Regional Centre for Training and Technology Transfer for the Joint Implementation of the Basel and Waigani Conventions in the South Pacific Region; and the Centre also is seeking to become the designated regional centre for the Rotterdam and Stockholm Conventions. [See case study on SPREP following Guideline 34(c).]
- Developing *national legislation that implements a cluster of thematically related MEAs thematically*. For example, a State may develop a biodiversity law that



holistically integrates and implements the Convention on Biological Diversity (CBD), the Convention on Migratory Species (CMS), the Ramsar Convention (on wetlands), the Convention on the International Trade in Endangered Species of Wild Fauna and Flora (CITES), and/or the World Heritage Convention (WHC). Similarly, legislation could cluster the hazardous substances MEAs (Basel, Rotterdam, and Stockholm). Regional agreements — such as the Waigani Convention (in the Pacific) and the Bamako Convention (in Africa) on hazardous wastes, and the Lusaka Agreement (in Southern and East Africa) on wild fauna and flora — can also be included in these clusters. States such as Antigua & Barbuda, South Africa, and Tonga have either adopted such laws or are exploring such an approach.

- Developing *national legislation that implements a cluster of MEAs in a specific context*. For example, a State may develop legislation to implement its commitments under a regional seas convention, as well as the Basel Convention, the London Dumping Convention, and the CBD. Such an approach may fully implement some MEAs and partially implement other MEAs, taking advantage of the synergies as they may appear.  **[40]**
- Developing *national legislation that applies the relevant MEA provisions to a specific context*. Such legislation may not fully implement all of the provisions of the various MEAs, but the legislation would identify and incorporate the relevant provisions from the relevant MEAs. Uganda’s forest legislation is one such example. [See case study on “Consultants to Facilitate Legislative Development: Ugandan Forest Sector Legislation” following Guideline 40.]
- Implementing MEAs synergistically by building on *operational synergies*. For example, CITES, the Basel Convention, the Montreal Protocol, the Stockholm Convention (on POPs), and the Rotterdam Convention (on PIC) all depend on having effective customs offices to identify and interdict illegal importation (and export) of CITES-listed species, hazardous waste, and ozone depleting substances, respectively. Such offices also have a role in verifying and facilitating legal trade in these materials. The Green Customs Initiative seeks to build capacity of customs officers through integrated training on these five MEAs [see case study following Guideline 33(f)].  **[33(f)]**
- At the national level, States can establish *national technical committees* to identify synergies, inter-linkages, and ways to cluster MEAs for implementation purposes. For example, Kenya has developed such a committee, with assistance from UNEP’s Partnership for Development of Environmental Laws and Institutions in Africa (PADELIA).
- MEAs can be clustered for purposes of *public awareness raising activities*.

NOTE: These examples of synergies may be more effective in certain contexts (countries, MEAs, etc.) than in others. As will all examples in this Manual, readers are encouraged to consider how the examples may – or may not – apply in a particular context.

Most of these measures are either being done or are being actively explored. There are other opportunities for synergies that are likely to take longer to be realised, if ever, particularly at the international level, and may occur incrementally. For example, co-location of MEA Secretariats remains a contentious issue and it is unclear that Secretariats will be co-located, let alone combined. In the meantime, though, the following case studies describe efforts underway to promote synergies in reporting among MEAs as well as other synergies. In considering options, care should be taken to ensure that efforts in this area maintain consistency with the terms of each MEA. In addition, it should be recalled that parties to one MEA may not necessarily be party to a related MEA.

Enhancing Cooperation at the International Level

Since March 1994, UNEP has regularly convened meetings of representatives of the MEA Secretariats, including:

- (i) Secretariat for the Convention on the Conservation of Migratory Species of Wild Animals (CMS);
- (ii) Secretariat for the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Basel);
- (iii) Secretariat for the Vienna Convention for the Protection of the Ozone Layer and for the Montreal Protocol on Substances that Deplete the Ozone Layer (Ozone);
- (iv) Secretariat for the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES);
- (v) Secretariat for the Convention on Biological Diversity (CBD);
- (vi) Secretariat for the United Nations Convention on Climate Change and for the Kyoto Protocol (UNFCCC);
- (vii) Secretariat for the Protection of the World Cultural and Natural Heritage (WHC);
- (viii) Secretariat for the Convention on Wetlands of International Importance Especially as Waterfowl Habitat (Ramsar Convention);
- (ix) Secretariat for the United Nations Convention to Combat Desertification in Countries Experiencing Serious Drought and/or Desertification Particularly in Africa (CCD);
- (x) Interim Secretariat for the Stockholm Convention on Persistent Organic Pollutants;
- (xi) Interim Secretariat for the Rotterdam Convention on Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade.

Meetings or Conferences of the Parties (MOPs or COPs) governing MEAs have the authority to charge the Secretariats to work together in this regard. Some MEAs provide within their text for cooperation. For example, the POPs Convention calls for a coordinating effort

with the Basel Convention. However, a decision from an MEA's COP or MOP calling for coordination can achieve the same cooperative results.

Thus, the Secretariat of the Convention on the Conservation of Migratory Species of Wild Animals (CMS) has sought to synergize efforts with CITES, CBD, UNCCD, Ramsar Convention, the International Whaling Convention, the World Heritage Convention, and the UN Convention on the Law of the Sea. For example, CMS, the African-Eurasian Water Bird Agreement (AEWA), and the Ramsar Bureau signed a Joint Work Programme in 2004.

The Climate and Ozone Secretariats have also sought to collaborate, as some substitutes for Ozone Depleting Substances (ODS) are greenhouse gases. Thus, collaboration among the Secretariats is important to avoid shifting the environmental burden from one context to another. Efforts are also underway to explore synergies between the Climate and Biodiversity Secretariats, as intact forests can serve both as habitat and as “sinks” for greenhouse gases such as carbon dioxide.

Biodiversity-related MEAs — including CBD, CITES, CMS, and Ramsar — have been exploring ways to better coordinate. The Secretariats have developed MOUs and joint workplans with one another. Moreover, they tend to participate in one another's COPs and other key meetings. In response to a call from the Conference of the Parties of the Convention on Biological Diversity to enhance cooperation among the five biodiversity-related MEAs (i.e., CBD, CITES, CMS, Ramsar, and WHC), the Biodiversity Liaison Group (BLG) was formed in June 2004. The BLG brings together the heads of the secretariats and meets regularly to explore opportunities for synergistic activities and increased coordination, as well as to exchange information.

As is implied by the growing coordination among the Secretariats, activities at the international level may be organized along specific environmental media or themes. In cooperation with MEA Secretariats, UNEP has identified four key thematic clusters of MEAs:

- (1) the sustainable development MEAs (e.g., the Rio Conventions),
- (2) biodiversity related MEAs,
- (3) chemicals and hazardous waste MEAs, and
- (4) the regional seas conventions and related agreements.

In some cases, one MEA appears in more than one cluster. For example, the CBD is both a sustainable development agreement and it relates to biodiversity.

There are many approaches to clustering. For example, clusters can be based on issues, functions, impacts, regions, scale, etc. Some of these are highlighted in examples above, as well as case studies below. Accordingly, some approaches are more appropriate than others when dealing with specific issues.

Pesticide management illustrates one way how MEAs can be clustered. The Stockholm Convention on Persistent Organic Pollutants (POPs) governs the generation and use of POPs (including some pesticides). The Rotterdam Convention on Prior Informed Consent governs the trade in pesticides and other hazardous chemicals. And the Basel Convention

governs the disposal of old pesticides (and other hazardous wastes). The Montreal Protocol controls the production and consumption of the ozone-depleting pesticide, methyl bromide.

At the international level, a range of activities can capitalize on the synergies within a thematic cluster of MEAs. In addition to the ones mentioned above, the activities can include include measures, to the extent consistent with the terms of each MEA, to:

- harmonise definitions of common terms,
- harmonise reporting formats and schedules,
- develop common indicators to assess progress in implementation, where appropriate,
- harmonise approaches for engaging civil society in the development and implementation of MEAs,
- develop a single financing mechanism for activities that simultaneously implement provisions of related MEAs,
- coordinate policy-making and implementation through involvement of other MEA Secretariats in the COPs of related MEAs, and enhance communication among those MEAs and their COPs,
- hold back-to-back COPs and other MEA-related meetings to improve coordination and cooperation among MEA Secretariats,
- enhance cooperation between the subsidiary and technical bodies (and including working groups) of related MEAs, and
- identify cross-cutting themes to improve the implementation of MEAs.

These are examples of ways that Parties and the MEA Secretariats might consider improving cooperation. In some specific cases (see below), such initiatives have started. In other cases, though, such activities may be premature, not feasible, or not appropriate.

Enhancing Cooperation among MEA Secretariats in Activities Targeting the National Level

The discussion above also highlights a number of ways that MEA Secretariats can cooperate in activities targeting the national level. In addition, at the national level (and to some extent at the regional and international levels), activities can include:

- develop national technical committees to identify synergies, inter-linkages, and ways to implement related MEAs simultaneously at the national level; these technical committees could also suggest time frames and targets for implementation;
- integrate the collection, analysis, and dissemination of scientific information and other data;
- public education and dissemination of information;
- legislative, regulatory, policy, and institutional measures to implement the MEAs; and

- capacity building efforts, such as the Green Customs Initiative [see case study following Guideline 33(f)].



In some instances, States have been able to cluster MEAs through guidelines. For example, a generalised reporting requirement in a framework environmental law could provide the basis for guidelines requiring industrial facilities producing, using, trading, or disposing of hazardous chemicals and wastes (which might be covered by the Basel, Rotterdam, and Stockholm Conventions) to report these actions to the relevant agency or Ministry in a single report.



Guideline 40 and the accompanying discussion (especially on “Synergetic Implementation of MEAs”) explore synergetic implementation of MEAs into national legislation.



THE RIVER BASIN INITIATIVE OF THE CBD AND THE RAMSAR CONVENTION

Recognising that river basins provide crucial habitat and services for biological diversity and people alike, the Convention on Biological Diversity (CBD) and the Ramsar Convention on Wetlands established a River Basin Initiative in 2000 to improve the management of river basins for biodiversity and people. The initiative seeks to “promote and support integrated management of biodiversity, wetlands and river basins worldwide.”

The Initiative is a cross-sectoral partnership with partners at the local, national, and international levels. It relies on a Knowledge Sharing Network to exchange good practices, experiences, and information. The Initiative also seeks to raise awareness about, and build capacity to, implement approaches for integrated river basin management.

For more information, see http://www.riverbasin.org/ev_en.php



PROMOTING CITES AND CBD COOPERATION AND SYNERGIES

In April 2004, a workshop on Promoting CITES-CBD Cooperation and Synergy was organised by TRAFFIC, the CITES and CBD Secretariats, IUCN, UNEP, Flora and Fauna International, GTZ, and the German Federal Agency for Nature Conservation. Acting on a proposal from Namibia, which was consistent with one of the recommendations contained in the workshop report, the CITES Conference of the Parties adopted Resolution Conf. 13.2 which urges CITES Parties to make use of the Principles and Guidelines for the Sustainable Use of Biodiversity that were adopted by the Parties to CBD.

For more information, contact cites@unep.ch



JOINT LIAISON GROUP FOR THE RIO CONVENTIONS (PLUS RAMSAR)

In 2002, the secretariats of the three Rio Conventions – the UN Framework Convention on Climate Change (UNFCCC), the UN Convention to Combat Desertification (UNCCD), and the Convention on Biological Diversity (CBD) – established a Joint Liaison Group (JLG). The Joint Liaison Group was established in order to promote cooperation among the three conventions at the national and international levels, with an ultimate aim of developing complementarities and synergies in their activities on issues of mutual concern. The JLG has since expanded to include the Ramsar Convention. The JLG includes the Executive Secretaries, officers from the various subsidiary bodies (such as the UNFCCC SBSTA and the CBD SBSTTA), and other members of the MEA Secretariats. Its terms of reference, as well as Joint Work Programme, was endorsed by the CBD COP at its sixth meeting in 2002 (Decision VI/20). The Group has held a number of meetings since then. For example, in April 2004, it held a workshop in Viterbo, Italy, on forests and forest ecosystems with a view to identifying potential synergies in the implementation of the three conventions in this field.

The JLG collects and exchanges information on the activities of each MEA. It meets periodically to develop mechanisms for promoting synergies among the MEAs. From these discussions, the MEAs have developed a joint website, a joint information booth at the 2002 World Summit on Sustainable Development (WSSD), and a joint information strategy. For example, launched in 2002, the Joint Calendar of Events (<http://www.unccd.entico.com/english/calendars.htm>) highlights events mandated by the CBD, UNCCD, and UNFCCC processes that are relevant to the work of the three MEAs.

The JLG continues to discuss other synergies, for example through adaptation, capacity building, technology transfer, research and systematic observation, and information, education, and awareness.

A second iteration of the CBD-CMS Joint Work Program was adopted by the CMS COP in November 2003 see http://www.cms.int/bodies/COP/cop8/documents/proceedings/pdf/eng/CP8Res_8_18_Integration_MigratorySpecies_Natl_Biodiversity.pdf

For more information, contact jo.mulongoy@biodiv.org or see http://test.unfccc.int/cooperation_and_support/cooperation_with_international_organisations/items/2968.php



COOPERATION TO PROMOTE EIA AND BIODIVERSITY SYNERGIES

The Secretariat of the UNECE Convention on Environmental Impact Assessment (EIA) in a Transboundary Context (the Espoo Convention) has worked with the Secretariats of the Convention on Biological Diversity (CBD), Convention on the Conservation of Migratory Species (CMS), and the Ramsar Convention on Wetlands to develop methodologies for incorporating biodiversity issues into EIA and strategic environmental assessment (SEA). This led to Guidelines for Incorporating Biodiversity-Related Issues into Environmental Impact Assessment Legislation and/or Processes and in Strategic Environmental Assessment, which were adopted by the Sixth COP of the CBD.

The Guidelines are available at http://www.unece.org/env/eia/documents/links_between_conventions/decisionvi7of6thcopofcbd.pdf

For more information, see <http://www.unece.org/env/eia/eiaresources.html>



UNU HANDBOOK AND WORKSHOPS ON THE KEY LINKAGES AMONG THE RIO+ CONVENTIONS

The United Nations University has developed a handbook on key linkages among the Rio conventions and other MEAs in order to provide States with comparative information on MEA requirements so as to enable them to develop synergies in the implementation of these agreements. The handbook covers six conventions so far: (1) the UN Framework Convention on Climate Change (UNFCCC), (2) the Convention on Biological Diversity (CBD), (3) the United Nations Convention to Combat Desertification in Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa (UNCCD), (4) the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), (5) the Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar Convention), and (6) the Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocol on Substances that Deplete the Ozone Layer.

The handbook surveys the texts of the MEAs and the decisions of the conferences of the parties (COPs) and tabulates the MEAs' comparative requirements for certain thematic and administrative aspects. These include:

- national action programmes,
- capacity development,
- education and outreach,
- reporting,
- technology transfer, and
- impacts and adaptation

UNU Handbook and Workshops on the Key Linkages among the Rio+ Conventions (cont'd)

By comparing the requirements and approaches of the different MEAs on each topic, it will be possible to identify opportunities for synergies in implementation.

The handbook will be further developed to include regional annexes to cover regional agreements, with the Pacific and ASEAN agreements already covered and other regions to be addressed subsequently. The handbook will also be developed to include other MEAs, other issues such as compliance and enforcement, and other considerations such as the Millennium Development Goals, the outcomes of the World Summit on Sustainable Development (WSSD), and Barbados+10 (relating to small island developing states or SIDS).

UNU's work on synergies emphasises four main principles: demand driven, value added, follows the principle of subsidiarity, and contributes to goals of sustainable development. Their research suggests that through synergies can be developed and implemented effectively if these principles are followed.

The handbook can be downloaded from <http://www.geic.or.jp>



COORDINATION BETWEEN CMS AND THE RAMSAR CONVENTION

Recognising that wetlands are frequently critical habitat for migratory species (and particularly migratory birds), the Secretariat of the Ramsar Convention and the Secretariat of the Convention on the Conservation of Migratory Species of Wild Animals (CMS) concluded a Memorandum of Understanding in 1997. The MOU provides a framework for joint promotion of activities, international cooperation, joint conservation actions, developing harmonised data and databases, exchanging information, exploring the possibility of harmonising national reports, and investigating opportunities for cooperating in the development of new agreements.

For more information, see http://www.ramsar.org/key_cms_mou.htm



SYNERGIES BETWEEN THE RAMSAR CONVENTION AND OTHER MEAs

The benefits of coordination and collaboration among MEAs and international organisations with related missions have been recognized for some time. The Ramsar Secretariat has devoted a great deal of effort to developing synergies with other environment-related instruments, and continues to do so. In some cases, follow-up assessments of the tangible progress of these relationships have shown that the initiative has been well worth it to all parties concerned. Similarly, the Secretariat has been taking vigorous steps to encourage Ramsar's "Administrative Authorities" (national focal points) to build close working relationships with their counterparts for the other conventions at national level.

The Convention on Biological Diversity (CBD)

In 1996, the Secretariats of the Ramsar Convention and the CBD signed a Memorandum of Cooperation. Later that year, the CBD's COP3 invited Ramsar "to cooperate as a lead partner" in implementing CBD activities related to wetlands. Accordingly a Joint Work Plan 1998-1999 between the two conventions was developed and implemented. A second Joint Work Plan was successfully carried out for the period 2000-2001. Currently, a third Joint Work Plan for 2002-2006 (endorsed by the CBD COP6 and Ramsar COP8 in 2002) provides a blueprint for mutual cooperation between the conventions. The COPs of both Conventions have also called for increased communication and cooperation between their subsidiary scientific bodies — the CBD's Subsidiary Body for Scientific, Technical, and Technological Advice (SBSTTA) and the Ramsar Scientific and Technical Review Panel (STRP) — and members of both of these bodies regularly participate in the work and meetings of one another.

The Convention on Conservation of Migratory Species of Wild Animals (CMS)

The Ramsar Secretariat and the CMS Secretariat signed a Memorandum of Understanding in 1997. It seeks to ensure cooperation between the two secretariats in the fields of joint promotion of the two conventions; joint conservation action; data collection, storage, and analysis; and new agreements on migratory species, including endangered migratory species and species with an unfavourable conservation status. Some concrete results of this relationship have already been observed, particularly with regards to coordinated work between Ramsar and the CMS's African-Eurasian Migratory Waterbird Agreement (AEWA). A three-way joint work plan between the secretariats of the CMS, AEWA, and the Ramsar Convention was signed in early 2004.

UNESCO World Heritage Convention

A Memorandum of Understanding was signed between the Ramsar Secretariat and the World Heritage Centre in 1999. The Ramsar Secretariat and the World Heritage Centre maintain a close working relationship with a view to:

Synergies between the Ramsar Convention and Other MEAs (cont'd)

- promoting nominations of wetland sites under the two conventions;
- reviewing reporting formats and coordinating the reporting about shared sites;
- contributing to both conventions' training efforts;
- coordinating fundraising initiatives concerning shared sites; and
- encouraging the establishment of joint national committees.

In particular, the World Heritage and Ramsar Conventions have worked closely on joint expert advisory missions to Ichkeul (Tunisia), Djoudj and Diawling (Senegal and Mauritania), and Lake Srebarna (Bulgaria).

United Nations Convention to Combat Desertification (UNCCD)

Wetlands are crucially important everywhere and even more so in arid lands. Thus, the Ramsar Secretariat was present at the first UNCCD COP in 1997, where it distributed to the delegates a publication on Wetlands in Arid Zones. In 1998, during the second UNCCD COP, the Secretary General of the Ramsar Convention and the Executive Secretary of the UNCCD signed a Memorandum of Cooperation between the secretariats to help to increase communication between them, coordinate efforts, and avoid duplication. Practical cooperation between the secretariats has been developing mainly at the regional level in the Americas and in Africa.

United Nations Framework Convention on Climate Change (UNFCCC)

In preparation for UNFCCC COP5, the Ramsar Secretariat commissioned IUCN to prepare a technical document entitled Wetlands and Climate Change: Exploring Collaboration between the Convention on Wetlands (Ramsar, Iran, 1971) and the UN Framework Convention on Climate Change.

As a result, SBSTA "requested the secretariat [of UNFCCC] to liaise with the secretariat of the Convention on Wetlands on the specific issues identified in the oral report delivered by the representative of that secretariat in order to determine how cooperation between the conventions could be strengthened. The SBSTA requested the secretariat to report back to it on this matter at its twelfth session." Similarly, in Resolution VIII.3 (2002), the Ramsar COP requested the Ramsar STRP to work further with the UNFCCC and the Intergovernmental Panel on Climate Change (IPCC) on the relationships between wetlands and climate change.

Regional Conventions

The Ramsar Secretariat has also effected Memoranda of Cooperation with UNEP's Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region (Cartagena Convention), signed in 2000, and with the Coordinating Unit of the Mediterranean Action Plan of the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (Barcelona Convention), signed in 2001. An updated MOU with the Cartagena Convention was signed in 2005, and the MOU with the Barcelona Convention (for the Mediterranean region) was updated in 2006. The Pacific Regional Environment

Synergies between the Ramsar Convention and Other MEAs (cont'd)

Programme (SPREP) is a partner with the Ramsar Convention since concluding an MOU in 2002 and at present it is hosting the Ramsar Regional Advisory office for Oceania.

Coordination among Conventions

The Ramsar Secretariat participates in the conventions' coordinating meetings organised by the United Nations Environment Programme (UNEP) and has welcomed the tendency of these meetings to focus less on administrative matters and more upon substantive coordination issues. The Ramsar Secretariat has contributed staff time and financial resources to joint working groups and studies aimed at harmonising the requirements of the biodiversity-related conventions, as for example a study carried out by the UNEP World Conservation Monitoring Centre (UNEP-WCMC) on the feasibility of harmonising reporting requirements under the different biodiversity-related agreements, and participates in UNEP's Environmental Management Group (EMG).

A decision by the UNFCCC's COP8 invited the Ramsar Convention to participate in the work of the Joint Liaison Group (JLG) of UNFCCC, CBD, and UNCCD. In addition, the five biodiversity-related conventions — CBD, CITES, CMS, Ramsar, and World Heritage — have a joint Web site hosted by the CBD Secretariat, initiated in 1999.

For more information about existing MOUs and joint work plans, see http://www.ramsar.org/index_mou.htm; for more information about the Ramsar Convention, see http://www.ramsar.org/index_key_docs.htm



UNEP/WCMC PROJECT ON HARMONISATION OF INFORMATION MANAGEMENT AND REPORTING FOR BIODIVERSITY MEAs

UNEP and UNEP-WCMC have undertaken a pilot project on harmonisation of information management and reporting pursuant to biodiversity-related MEAs. This project was conducted in four States: Ghana, Indonesia, Panama, and the Seychelles. It addressed five agreements: CBD, CITES, CMS, the Ramsar Convention on Wetlands, and the World Heritage Convention. [Governing bodies of the first four MEAs have explicitly endorsed the move toward increased harmonization of reporting.]

Each State tested different approaches to harmonisation. Ghana assessed the possibility of linking the national reporting requirements to the State of the Environment (SoE) reports that the State produces internally. Indonesia identified common information “modules” and used these modules as a basis for developing its national reports (i.e., in a modular approach). Panama explored possible regional support mechanisms for national information management and reporting. Seychelles considered ways to produce a consolidated national report that satisfies the needs of several MEAs.

To overcome the various potential barriers to harmonised reporting, the pilot projects emphasised a broad participatory and transparent process. They sought to ensure that there was a clear understanding of the benefits of the projects. They promoted the involvement, dialogue, and coordination among agencies and with civil society. Finally, they proceeded incrementally, establishing practical approaches that can be adapted, expanded, and applied in other sectors and in other States.

A workshop held in September 2004 in Belgium, in which the convention secretariats participated, reviewed the outcomes of the pilot projects and resulted in recommendations to national Governments, the MEAs, and organisations. The workshop recommended, inter alia, that:

- coordination on the management of information at the national level is crucial;
- the focus needs to shift to outcome-oriented reporting;
- MEAs should consider developing thematic clusters relevant to more than one MEA on which States could report on (e.g. inland waters, invasive species, protected areas);
- the capacity of developing countries needs to be strengthened to implement a harmonised approach to information management and reporting in order to reduce the reporting burden; and
- regional organisations could play a crucial role in supporting harmonisation at the national level.

For more information, see <http://www.unep-wcmc.org/conventions/harmonization/index.htm> or contact Peter Herkenrath of UNEP-WCMC peter.herkenrath@unep-wcmc.org or Jerry Velasquez of UNEP jerry.velasquez@unep.org



SYNERGIES AND THE MILLENNIUM ECOSYSTEM ASSESSMENT

The Millennium Ecosystem Assessment (MA) is an international initiative that seeks to address the needs of decisionmakers and the public for scientific information on the environment. Launched in 2001, the MA will help to meet assessment needs of the Convention on Biological Diversity (CBD), UN Convention to Combat Desertification (UNCCD), the Ramsar Convention on Wetlands, and the Convention on the Conservation of Migratory Species of Wild Animals (CMS), as well as needs of other users in the private sector and civil society. The MA will:

- Identify priorities;
- Provide tools for planning and management;
- Highlight the consequences of decisions affecting ecosystems;
- Identify response options; and
- Help build individual and institutional capacity to undertake integrated ecosystem assessments and to act on their findings.

The MA addresses synergies through an ecosystem approach. It promotes a joint baseline assessment for MEAs to use in their policymaking. Such an ecosystem approach has been approved by the CBD COP and has been noted by the other COPs as possible means to promote synergies, particularly among the Rio Conventions.

The MA will assist States and international organisations (including COPs, but also funding and implementing organs such as the World Bank) to set baselines for ecosystems. These baselines will assist States and organisations in determining whether and to what extent their programmes are having an impact at sub-regional, regional, and global scales.

For more information, see <http://www.millenniumassessment.org/en/index.aspx>



STRATEGIC APPROACH TO INTERNATIONAL CHEMICALS MANAGEMENT (SAICM)

The Strategic Approach to International Chemicals Management (SAICM) is a multi-institutional initiative that responds to the need to streamline and integrate efforts to safely manage hazardous chemicals and wastes. SAICM will address all the phases and elements of chemical safety, taking into consideration a range of environmental and public health concern throughout the life-cycle of chemicals. For example, issues of production, use, import, export, and disposal of chemicals will be considered.

SAICM was launched in 2002, and is facilitated by an inter-organisation steering committee comprising the seven participating organisations of the Inter-Organization Programme on the Sound Management of Chemicals (IOMC) (which includes UNEP), the Intergovernmental Forum on Chemical Safety (IFCS), the United Nations Development Programme (UNDP), and the World Bank.

For more information, see <http://www.chem.unep.ch/saicm/>

UNDP Study on Synergies among the Rio Conventions

A study conducted by the United Nations Development Programme (UNDP) on overlap in MEAs has identified three areas of physical overlap among the main instruments to emerge from the 1992 Rio Summit: forests, dry land areas, and the impacts of climate change. It concluded that these areas could yield valuable synergies, if the concerned agencies focused on collaborative efforts. Specifically, the study recommended that Parties seek ways to:

- establish common definitions of terms and indicators;
- establish commonality in data among the instruments;
- identify where data already exist;
- encourage custodians of data to share it with other institutions;
- develop the necessary capacity for data integration and analysis;
- encourage development of good information management practices;
- facilitate integration and sharing of information; and
- ensure that only necessary information is requested from Parties.

UNDP analysis suggested that a standard approach to information collection would enable the data to be used easily for more than one convention, facilitate the production of cross-convention summaries (where there are links), and encourage greater coordination among national agencies and focal points. Specific actions that would be required to implement their recommendations focus on the need to ensure consistency in the use of vocabulary, terminology, and information technology.



COORDINATION OF UNECE AGREEMENTS AND THEIR SECRETARIATS

For two consecutive years, the Bureaus of the Committee on Environmental Policy and of the governing bodies of the ECE environmental conventions, namely the Conventions on Long-range Transboundary Air Pollution (LRTAP), on Environmental Impact Assessment in a Transboundary Context (Espoo Convention), on the Protection and Use of Transboundary Watercourses and International Lakes (Helsinki Convention), on the Transboundary Effects of Industrial Accidents, and on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention), have held informal meetings, at the invitation of the Chairman of the Committee on Environmental Policy. The aim of these informal meetings is to share experiences and find synergies and areas of cooperation to promote and assess the implementation of the conventions in the region.

For example, at the last meeting, it was agreed that the value of the ECE conventions for the environment in the region needs to be further demonstrated to the Member States in order to prompt the allocation of more national resources to fulfilling their commitments under the conventions. It was also agreed that the finding synergies between and among the conventions should be demand-driven, and the “bottom-up” approach to the cooperation was considered to be appropriate for the purpose. It was decided that concrete issues to be tackled together could include public participation, compliance, technical assistance, capacity-building, and financial issues. The Committee on Environmental Policy could contribute to the work of the conventions in particular in the field of capacity-building as well as through strengthening coordination among the various bodies.

For more information, see <http://www.unece.org/env/cep/welcome.html>

Coordination between Global and Regional Agreements

As noted following Guidelines 11 and 34(f), regional agreements can supplement MEAs and promote their application at the regional and subregional levels. When this happens, it is important that the respective global and regional institutions communicate and coordinate. This can be done formally through MOUs, or in a less formal manner.





Additional Resources On Clustering, Synergies, And Inter-linkages Among Meas

In addition to the analysis and examples provided above, Guidelines 10(e), 33(f), 34(h), 40, and 41(n) and the accompanying text also provide examples of facilitating synergies and linkages among MEAs. In particular, Guideline 33(f) addresses capacity building that cuts across MEAs (for example, through the Green Customs Initiative); there is a discussion of "Synergetic Implementation of MEAs: Integration into National Laws" following Guideline 40; and there is a discussion of the National Capacity Self-Assessment (NCSA) process following Guideline 41(n), which facilitates consideration of synergies among MEAs.

Anantha Kumar Duraiappah & Asmita Bhardwaj, *Measuring Policy Coherence Among the MEAs* (IISD 2005), available at <http://www.iisd.org>

UNEP, *Interlinkages between the Ozone and Climate Change Conventions – Part I: Inter-Linkages between the Kyoto and Montreal Protocols* (2002), available at <http://www.unep.org/ozonaction/library/mmcfiles/3587-e.pdf>

UNEP, *Two Challenges, One Solution: Case Studies of Technologies that Protect the Ozone Layer and Mitigate Climate Change* (2001), available at http://www.unep.fr/ozonaction/library/mmc/lib_detail.asp?r=2607

UNEP-WCMC, *Synergies and Cooperation: A Status Report on Activities Promoting Synergies and Cooperation between Multilateral Environmental Agreements, in Particular Biodiversity-Related Conventions, and Related Mechanisms* (2004), available at <http://www.unep-wcmc.org/conventions/harmonization/reports.htm> (summarising synergies and interlinkages among a variety of MEAs, UN Agencies, and other institutions).

United Nations University, *Inter-linkages: Synergies and Coordination among Multilateral Environmental Agreements Resource Website*, <http://www.geic.or.jp/jerry/resource/> (with copies of policy briefs and reports, handbooks, regional reports on integrated capacity building, UNEP reports, and presentations; the UNEP reports include *Harmonization of Biodiversity Related Conventions* and *Synoptic Report on Synergies among MEAs*).

Rüdiger Wolfrum & Nele Matz, *Conflicts in International Environmental Law* (Springer 2003).

Chapter II

Enforcement of MEAs

A. Background on Enforcement

[35] *These guidelines recognize the need for national enforcement of laws to implement multilateral environmental agreements. Enforcement is essential to secure the benefits of these laws, protect the environment, public health and safety, deter violations, and encourage improved performance. These guidelines also recognize the need for international cooperation and coordination to facilitate and assist enforcement arising from the implementation of multilateral environmental agreements and help to establish an international level playing field.*

[36] *These guidelines outline actions, initiatives and measures for States to consider for strengthening national enforcement and international cooperation in combating violations of laws implementing multilateral environmental agreements. The guidelines can assist Governments, its competent authorities, enforcement agencies, secretariats of multilateral environmental agreements, where appropriate, and other relevant international and regional organizations in developing tools, mechanisms and techniques in this regard.*

[37] *The guidelines address enforcement of national laws and regulations implementing multilateral environmental agreements in a broad context, under which States, consistent with their obligations under such agreements, develop laws and institutions that support effective enforcement and pursue actions that deter and respond to environmental law violations and crimes. Approaches include the promotion of appropriate and effective laws and regulations for responding appropriately to environmental law violations and crimes. These guidelines accord significance to the development of institutional capacities through cooperation and coordination among international organizations for increasing the effectiveness of enforcement.*

Introduction, Purpose, and Scope of the Enforcement Chapter

The enforcement chapter of the Guidelines recognises the vital role that enforcement plays in achieving the benefits offered by environmental laws and regulations. Effective enforcement can protect the environment, public health and safety, it can deter violations of law and it can encourage improved performance by the regulated community.

A good enforcement programme also reinforces the credibility of environmental protection efforts and the legal system that supports them and ensures fairness for those who willingly comply with environmental requirements.

The Guidelines aim to improve implementation of MEAs through strengthened enforcement. They emphasise that opportunities for such strengthening exist at the local, national and international level. Action at the national level is crucial and is given emphasis, but

the Guidelines also acknowledge that international cooperation is essential if national-level enforcement is to be improved. This is especially true in developing countries and countries with economies in transition, and it can be accomplished through capacity building, financial assistance, and technology transfer.

Importance of Environmental Enforcement Programmes

Environmental enforcement programmes are important for many reasons. They protect environmental quality and public health, strengthen the credibility of environmental requirements, ensure fairness, and reduce long-term costs and liability.

To Protect Environmental Quality and Public Health.

Compliance is essential to achieving the goals of protecting public health and environmental quality envisioned by environmental laws. Public health and the environment will be protected only if environmental requirements get results. Enforcement programs are essential to get these results.

To Strengthen the Credibility of Environmental Requirements.

To get results, environmental requirements and the government agencies that implement them must be taken seriously. Enforcement is essential to build credibility for environmental requirements and institutions. Once credibility is established, continued enforcement is essential to maintain credibility. Credibility means that society perceives its environmental requirements and the institutions that implement them as strong and effective. Credibility encourages compliance by facilities that would be unlikely to comply if environmental requirements and institutions are perceived as weak. The more credible the law, the greater the likelihood of compliance; credible legislation can also improve the credibility of other government efforts (e.g., projects) to protect the environment.

To Ensure Fairness.

Without enforcement, facilities that violate environmental requirements will benefit compared to facilities that voluntarily choose to comply. A consistent and effective enforcement programme helps ensure that companies affected by environmental requirements are treated fairly. Facilities will be more likely to comply if they perceive that doing so will not economically disadvantage them.

To Address Poverty.

The laws, institutions, and practices of an effective environmental regime can also assist States in fighting poverty and promoting development in a sustainable manner. When the environmental regime takes poverty reduction into account, it can build public support while also integrating environmental enforcement into a broad range of sectors.

To Reduce Costs and Liability.

Though compliance is often costly in the short-term, it can have significant long-term economic benefits to both society and the complying facility. The healthier environment created by compliance reduces public health and medical costs, as well as the long-term cost to society of cleaning up the environment. Industry may also realise immediate economic benefits if compliance involves recycling valuable materials or increasing the efficiency of its processes. A strong enforcement programme may also encourage facilities to comply by preventing pollution and minimising waste, rather than installing expensive pollution control and monitoring equipment.



INTEGRATING MEAs INTO GEORGIA'S ECONOMIC DEVELOPMENT AND POVERTY REDUCTION PROGRAMME

In July 2003, the President of the Republic of Georgia approved the Economic Development and Poverty Reduction Programme (EDPRP). This programme is arguably the first serious instance of integration of environmental issues, including climate change, into national plans in Georgia.

The EDPRP seeks to ensure that the National Strategy for Sustainable Development (NSSD), when it is developed, will implement Georgia's "treaty and convention commitments, economic, social and environmental interests". The EDPRP also provides that "efforts will be made to bring the NSSD into compliance with EDPRP." Thus, the EDPRP integrates MEAs and other economic and social agreements while also seeking to ensure that sustainable development projects and laws acknowledge and are consistent with Georgia's priorities for economic development and poverty reduction.

In addition, measures anticipated under the EDPRP must implement environmental priorities (including those arising from MEAs). For example, the legislation for land use planning, which has yet to be drafted, will define the administrative levels of spatial development and establish detailed rules for adoption of territorial-spatial development plans, amendments, and control over these plans. The legislation will determine the public participation procedures, as well as addressing protection and conservation of biodiversity and sustainable management of terrestrial resources (forest, water, and minerals) during the planning of territorial-spatial development. Moreover, the EDPRP seeks to be consistent with the Kyoto Protocol, requiring that efforts be made to establish a Clean Development Mechanism. Regional and local programmes of water resource management will be worked out to ensure accessibility to clean water, especially for the poor. These programmes will regularise issues of clean water supply. Specific programmes for improving water quality in transboundary rivers and the Black and Caspian Seas will be worked out separately. Moreover, a plan will be developed to mitigate the effects of global climate change and rationalize water resource management.

For more information, contact Mrs. Nino Gokheshvili gmp@access.sanet.ge

An effective enforcement programme must be designed to respond swiftly and thoroughly to environmental violations. The most effective programmes, however, rarely reach this stage of application because they deter environmental violations before they occur.

There are many approaches to managing environmental problems. The need for and scope of enforcement depends, in part, upon which management approach or approaches are being used. Some approaches are purely voluntary — that is, they encourage and assist change, but do not require it. Other approaches are regulatory — that is, they require change. At the heart of regulatory approaches are environmental requirements — specific practices and procedures required by law to directly or indirectly protect the environment from threats such as pollution. While wholly regulatory approaches generally have the

most extensive requirements of all the management options, most of the other options introduce some form of requirements. Ensuring compliance with these requirements calls for enforcement.

The Guidelines address enforcement of national laws and regulations implementing MEAs in a broad manner. Of crucial importance is the development of laws and institutions at the national level that are designed to deter and respond to violations of environmental laws. The effectiveness of these laws and institutions can be strengthened and improved through capacity building and cooperation with international organisations.

An effective enforcement programme involves several components:

- Creating requirements that are enforceable;
- Knowing who is subject to the requirements and setting programme priorities;
- Monitoring compliance;
- Promoting compliance in the regulated community;
- Responding to violations;
- Clarifying roles and responsibilities; and
- Evaluating the success of the programme and holding programme personnel accountable for its success.

These components form a framework within which to consider issues pertinent to any enforcement program, regardless of its stage of development. The response to these issues may differ among States, among regions or localities within States, and among different programmes over time. Addressing all the elements of the framework is important to the success of all programmes. Each element is part of an interconnected whole and thus can influence the success of the whole programme. When the requirements are designed well, compliance can achieve the desired environmental results. If the requirements are designed poorly, then achieving compliance and/or the desired results will be more difficult (Source: INECE, Principles of Environmental Enforcement).

For many States enforcement remains a difficult aspect of national environmental legislation. A problem, including a lack of capacity or resources, at any level of a State's enforcement programme — from the drafting of clear laws to the training of enforcement personnel — can hinder enforcement efforts.



CASE ON PUBLICATION OF THE AARHUS CONVENTION IN GEORGIA

Georgia signed the Aarhus Convention on June 25, 1998, and the Parliament of Georgia ratified the Convention on February 11, 2000. The Convention entered into force on October 30, 2001. According to Georgian law, after an international agreement to which Georgia is a party enters into force, it must be published in the "Parlamentis Ucke bani" (the official publication of the Parliament of Georgia). The agreement must be published in order for the agreement to acquire the status of law in Georgia.

Unfortunately, while the publication requirement is obligatory, the law on international agreements does not establish a specific deadline for the official publication. Because of this defect, none of the MEAs that Georgia has ratified recently has been published officially (including the Aarhus Convention).

Mr. Merab Barbakadze, the executive director of the "Legal Society Association," brought a legal action in court to compel publication of the Aarhus Convention. Five months after hearing arguments, the court rendered its judgment on November 12, 2003. In Action No. N3/574, the court ruled in favor of the plaintiff and ordered the machinery of the Parliament to officially publish the Aarhus Convention.

For many reasons, including Parliamentary elections and the "Rose Revolution" of Autumn 2003, the court's judgment had yet to be fulfilled. With the first steps of constructing a new State underway, the new Parliament officially published the text of the Aarhus Convention in 2005.

For more information, contact Mr. Barbakadze at merab@mymail.ge

Definitions Used in the Enforcement Chapter

[38] For the purpose of this chapter of these guidelines:

- (a) “Compliance” means the state of conformity with obligations, imposed by a State, its competent authorities and agencies on the regulated community, whether directly or through conditions and requirements in permits, licences and authorizations, in implementing multilateral environmental agreements;
- (b) “Environmental law violation” means the contravention of national environmental laws and regulations implementing multilateral environmental agreements;
- (c) “Environmental crime” means the violations or breaches of national environmental laws and regulations that a State determines to be subject to criminal penalties under its national laws and regulations;
- (d) “Enforcement” means the range of procedures and actions employed by a State, its competent authorities and agencies to ensure that organizations or persons, potentially failing to comply with environmental laws or regulations implementing multilateral environmental agreements, can be brought or returned into compliance and/or punished through civil, administrative or criminal action.

The Guidelines define the terms “compliance,” “environmental law violation,” and “environmental crime” to facilitate understanding of their use in this chapter. “Compliance” is defined differently in this Chapter than it is in the Compliance Chapter of the Guidelines, to underscore the importance that enforcement plays (e.g., through conditions such as permits, licenses, and authorisations) in implementing environmental law. The term “environmental law violation” is defined as the contravention of environmental laws implementing MEAs, and “environmental crimes” are violations of environmental laws that are subject to criminal penalties. Many States have environmental laws in addition to those that implement MEAs. Many of the matters discussed in this Manual are equally applicable to this wider body of environmental laws, but these Guidelines and the Manual focus specifically on MEAs.

Environmental Crime

Environmental crime, or the imposition of criminal penalties for environmental violations, is a relatively new concept. Currently, the norms vary from State to State, with some States relying more on criminal sanctions, while other States rely more on civil or administrative sanctions to environmental offences. In many States, an element of intent (“mens rea”) is necessary to establish a criminal violation of law.

Over the past few decades, the international community has come to recognise that some environmental violations so severely threaten the well-being of people and the environment that these violations should carry with them harsh consequences. In these instances, criminal sanctions are encouraged, but generally not mandated. Given the sig-

nificant sanctions that may be imposed for criminal violations (including imprisonment), a Government may be required by its Constitution or other law to meet a higher standard of proof and to offer certain procedural rights to criminal defendants.

The G8, Interpol, EU, UNEP, and the UN Interregional Crime and Justice Research Institute have recognised the following five broad areas of offences:

- Illegal trade in wildlife in contravention of the 1973 Washington Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES);
- Illegal trade in Ozone Depleting Substances (ODS) in contravention of the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer;
- Dumping and illegal transboundary transport of various kinds of hazardous wastes in contravention of the 1989 Basel Convention on the Control of Transboundary Movement of Hazardous Wastes and their Disposal;
- Illegal, Unregulated, and Unreported (IUU) fishing in contravention of controls imposed by various Regional Fisheries Management Organisations (RFMOs); and
- Illegal logging and trade in timber when timber is harvested, transported, bought, or sold in violation of national laws.

Other environmental offences may share similar characteristics with these five accepted categories. These include:

- “Illegal transboundary movements” of living modified organisms (a possible offence under the 2000 Cartagena Protocol on Biosafety to the Biodiversity Convention);
- Illegal dumping of oil and other wastes in oceans (i.e., offences under the 1973 International Convention on the Prevention of Pollution from Ships (MARPOL) and the 1972 London Convention on Dumping);
- Violations of potential trade restrictions under the 1998 Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade;
- Trade in chemicals in contravention of the 2001 Stockholm Convention on Persistent Organic Pollutants; and
- “Fuel” smuggling to avoid taxes or future controls on carbon emissions.

For more information, see Gavin Hayman & Duncan Brack, *International Environmental Crime: The Nature and Control of Environmental Black Markets – Workshop Report* (RIIA 2002), available at http://europa.eu.int/comm/environment/crime/env_crime_workshop.pdf

Annex IX, includes additional definitions of terms relating to compliance with and enforcement of MEAs, and Annex X includes a Glossary of Terms.



OECD ENGLISH-RUSSIAN GLOSSARY OF TERMS USED IN ENVIRONMENTAL ENFORCEMENT AND COMPLIANCE PROMOTION

In 2002, the OECD published an English-Russian Glossary of Terms used in Environmental Enforcement and Compliance Promotion. This book seeks to assist States of Eastern Europe, Caucasus, and Central Asia (EECCA) in their efforts to reform and strengthen environmental enforcement and compliance promotion. In particular, the bilingual glossary facilitates effective communication among policymakers and environmental enforcement officials. It also seeks to support better dialogue among officials and practitioners in the EECCA region and the international exchange of experiences to improve compliance and enforcement.

The Glossary defines key terms used in laws, institutions, and systems for environmental compliance and enforcement. The terms tend to focus on domestic aspects. For example, "compliance" is defined as:

"The full implementation of requirements or conditions in a permit or in law or regulations. Compliance occurs when requirements are met and desired changes are achieved."

Similarly, "enforcement" is defined as:

"Enforcement, in the broad sense of this notion, is the application of all available tools to achieve compliance, including compliance promotion, compliance monitoring and non-compliance response. In a narrow sense, enforcement can be defined as the set of actions that governments or others take to correct or halt behaviour that fails to comply with environmental requirements."

For more information, see <http://www.oecd.org/dataoecd/37/38/26733765.pdf> or contact Ms. Angela Bularga at angela.bularga@oecd.org



ADDITIONAL RESOURCES ON ENVIRONMENTAL CRIMES

Ronald G. Burns & Michael J. Lynch, *Environmental Crime: A Sourcebook* (LFB Scholarly Pub. 2004).

Francoise Compte & Ludwig Kramer (eds.), *Environmental Crime in Europe: Rules of Sanctions* (Europa 2004).

John F. Cooney et al. (eds.), *Environmental Crimes Deskbook* (Environmental Law Institute 1996).

Steven C. Drielak, *Environmental Crime: Evidence Gathering and Investigative Techniques* (C.C. Thomas 1998).

B. National Approaches to Environmental Implementation and Enforcement

[39] *Each State is free to design the implementation and enforcement measures that are most appropriate to its own legal system and related social, cultural and economic circumstances. In this context, national enforcement of environmental and related laws for the purpose of these guidelines can be facilitated by the following considerations.*

Because environmental enforcement has its foundation in action at the national level, States can and should take into account the unique nature of their legal system, as well as their culture and institutional capacity in designing and adopting enforcement measures. An effective national environmental regime will require well-developed laws and regulations, a sufficient institutional framework, national coordination, training to enhance enforcement capabilities, and public environmental awareness and education.

There are many ways to develop an effective national environmental regime, and they can include a variety of tools advancing various objectives. The following discussion:

- surveys the general classes of environmental management tools that can be used to implement MEAs;
- discusses some of the objectives that these tools are designed to address; and
- examines how a State can develop an environmental regime that uses the different tools effectively and appropriately.

Environmental Management Tools To Implement MEAs

An environmental regime can use many different tools. As noted above, these can include binding laws and regulations, environmental taxes and subsidies, public awareness, and other tools. For the purposes of this Manual, these tools are classified into three broad groupings of tools: legal, economic, and voluntary tools. These are described in more detail below.

Legal Tools

Legal tools include codified laws, acts, statutes, regulations, policies, and other legal instruments. They can also include common law approaches.



As discussed in Guideline 40, in order to be effective in fostering compliance, environmental requirements in laws need to be enforceable. That is, they need to be clear, feasible, offer sufficient sanctions, and implemented with adequate notice. By considering enforceability throughout the process

of developing environmental requirements, policymakers can help make the requirements as effective as possible. Involvement of both legal and technical staff is important in this process.

Within the broad class of legal tools, there are different types of legal tools. These include command-and-control approaches, responsive regulation, and liability which are discussed below. In addition, legal tools can create an enabling environment for economic tools. For example, laws can provide for green taxes, fees, and subsidies, or they can provide the legal framework for an emissions trading programme.

“Command-and-Control” Approaches. Many legal instruments follow a “command-and-control” approach. In command-and-control approaches, the Government prescribes the desired changes through detailed requirements and then promotes and enforces compliance through these requirements. In effect, the Government says “Do this, don’t do that.” Examples of such approaches include technology-based standards, which require an entity to use a particular type of technology, and performance-based standards, which leave the entity free to choose the method of pollution reduction but require a specific level of performance. In some cases, there may be ambient-based standards, which focus on maintaining a certain overall quality of environment. These regulations are most effective when developed in consultation with the public and regulated communities.

Responsive Regulation. In contrast with command-and-control approaches, responsive regulation is a more collaborative approach to regulations. In responsive regulation, the Government works with the private sector (including the regulated entities) and public interest groups to develop standards. Through this collaborative process, there is broader ownership of the rules. This type of regulation is more of a negotiated process between the Government and regulated entity (like a “reg-neg” in the United States or the collaborative regulatory agreements in the European Union). For more information, see *I. Ayres & J. Braithwaite, Responsive Regulation: Transcending the Deregulation Debate (Oxford University Press 1992)*.

Liability Approaches. Some statutes or common law provisions make individuals or businesses liable for damages they cause to another individual or business or to their property. In some instances, liability can be simply for certain actions: proof of damage and causation are not required (see the discussion below of strict liability). Liability approaches typically establish who should be liable, for what actions or impact, the standard of liability, types of damages, etc. Examples of liability-based environmental management systems include nuisance laws, laws requiring compensation for victims of environmental damage, and laws requiring correction of environmental problems caused by improper disposal of hazardous waste.



Scales of Justice.

Liability systems can reduce or prevent pollution to the extent that individuals or facilities fear the consequences of potential legal action against them. Such an effect is called “deterrence” in that it deters potentially harmful activity. If, however, the extent of the liability is minor or it can easily be internalized into the cost of doing business (e.g., by “passing” the fine along to the consumer), liability may be limited in its effectiveness.

Different approaches to liability generally include different requirements for fault, causation, equitable contribution, and joint and several liability (see discussion following Guideline 40(c)).

Fault-based liability depends on an analysis of the person’s actions or inactions based upon what they know, knew, or should have known. For example, if a “reasonable person” would not leave a child alone with matches because the person would or should know that doing so might likely cause harm to someone or something, yet he does so anyway, he would be at fault. The same analysis would likely conclude that the person would not be negligent if the matches were supplied to an adult without reason to think the adult was irresponsible.

In contrast, strict liability imposes responsibility for the unfavorable consequences of an activity. These activities often relate to “inherently dangerous” activities or products. For example, if someone were to keep a wild animal and if the animal were to do harm, the owner/keeper may be liable for all harm caused even if the owner were able to demonstrate that he/she did everything possible or all that could reasonably be expected to see that nothing bad would happen. As such, strict liability can provide as an effective deterrent, since people can be liable for any result that flows from their activity. Going back to the matches example, if the person provided dynamite (which might be deemed an “inherently dangerous” product) which caused harm, he would be at fault because the law imposes strict liability for ultra-hazardous activities.

If a person is liable for environmental harm, the question then turns to the nature and extent of liability and to whom any compensation should be paid. Is it paid to the State (and if so, is it to the general Treasury or to an environmental Agency or Ministry?), a local authority, an NGO that brought suit, individuals who can prove harm, or someone else? Cases and laws provide for all of these options, depending on the State and the circumstances.

Economic Tools

Economic or “market-based” approaches use market forces (and economic incentives and disincentives) to achieve desired behaviour changes. These approaches can be independent of or build upon and supplement command-and-control approaches. For example, introducing market forces into a command-and-control approach can encourage greater pollution prevention and more economic solutions to problems. Market-based approaches include:

- Fee systems that tax emissions, effluents, and other environmental releases.
- Subsidies.
- Tradable permits, which allow companies to trade permitted emission rights with other companies.

- Offset approaches. These approaches allow a facility to propose various approaches to meeting an environmental goal. For example, a facility may be allowed to emit greater quantities of a substance from one of its operations if the facility offsets this increase by reducing emissions at another of its operations.
- Auctions. In this approach, the Government auctions limited rights to produce or release certain environmental pollutants.
- Environmental labeling/public disclosure. In this approach, manufacturers are required to label products so that consumers can be aware of the environmental impacts or the products' environmental performance. This is both an economic and an information-based tool (see below).

Some of these market-based approaches are hybrid versions of economic tools and command-and-control tools. For example, it may be necessary to provide a regulatory limit or "ceiling" for a cap and trade system. Alternatively or in addition, a law may establish a performance standard which can be achieved either through facility changes or through trading, as decided by the facility. This type of approach is embodied in the SO₂ programme of the U.S. Clean Air Act, which has a regulatory cap on emissions and a performance based standard, while allowing trading for compliance. Guideline 41(g) and the accompanying discussion provide more detail on economic instruments and how market-based approaches can be used to implement MEAs and advance environmental goals.



[41(g)]

Voluntary Tools

Voluntary approaches encourage or assist, but do not require, change. Voluntary approaches include public education, technical assistance, and the promotion of environmental leadership by industry and non-government organisations. Voluntary approaches may also include co-management of natural resources (e.g., lakes, natural areas, and groundwater) to maintain environmental quality.

Information-Based Tools

Some tools promote environmental goals through information. One key approach is collecting information. In many instances, a Government must act on limited information. Collecting further information can determine whether regulatory or other measures are necessary. This information can also help to build public awareness.

Another example of an information-based tool is the Pollutant Release and Transfer Register (PRTR) system. In a PRTR system, companies are required to report the quantities of specified chemicals that they release to the environment. Identifying and reporting these amounts has two primary effects.

First, the pollutants often highlight inefficiencies in the production process. As such, the reported releases effectively represent raw materials that the company is wasting. Accordingly, experience has shown that PRTR can lead to voluntary reductions (and savings) by facilities.

The other primary effect of a PRTR system is that making such information publicly available can bring informal but substantial public pressure to bear on the facility. Often the public does not know what is being released into the environment where they live. Simply making this

information available can empower the public to ask questions: Why is Facility X releasing so much more waste than Facility Y? Can this amount be reduced in any way without harming production? Are there non-toxic alternatives? Indeed, companies often voluntarily take measures to reduce the volume and toxicity of its releases, often due to concern for what the public might say. For more information on PRTR, see <http://www.unece.org/env/pp/prtr.htm>

Environmental performance rating is another information-based approach. For example, see the case study on “Environmental Information Disclosure and Performance Rating in China” following Guideline 41(j) and the case study on “Public Disclosure of Corporate Environmental Performance in Ghana” following Guideline 41(a)(iii).



[41(a)(iii)]
[41(j)]

Many of the information-based tools build capacity indirectly by generating environmental awareness. For example, PRTR builds awareness of the public and Government of some of the primary sources of pollution (by sector, geographic area, etc.) as well as the nature of the pollution (pollutant, media, timing, etc.).

Information-based tools also can build enforcement capacity more directly. For example, police, field officers, and other individuals charged with environmental enforcement often do not have copies of the relevant statutes, regulations, and standards. In some cases, the regulated community may also lack access to this information. Tools to put this information in the hands of the regulated community and the enforcement officers can greatly enhance self-compliance and external compliance.

Collaborative Management Tools. Collaborative management is a popular way to manage many natural resources. By engaging communities and other actors, a Government can greatly increase the resources available to it. In addition by involving these other stakeholders and by sharing benefits with them, Governments can generate broader support for the environmental initiative. Community-Based Natural Resource Management (CBNRM) and community conservation areas are two examples.

Customary Tools. Traditional authorities and customary norms remain important in many States, particularly in rural areas. Traditional leaders play a significant role in shaping the actions of their communities. Moreover, to the extent that implementing actions can be phrased in the context of customary law, implementation of MEAs can be facilitated by making use of existing norms. By using customary institutions and laws, Governments can work with traditional leaders to implement MEAs. This can be done in a largely informal way, working with the leaders and explaining why particular actions are necessary without ordering them to act or providing any direct financial incentives.

In addition to the following case study, other examples are provided in the discussion of “Educating Community and Traditional Leaders” following Guideline 44, as well as the case study on “Burkina Faso’s Conference of the National Council on Environment and Sustainable Development” following Guideline 42. Moreover, Small Island Developing States (such as Samoa) have worked with traditional village councils and chiefs to enforce environmental laws in villages. Churches and mosques can also be approached.



[42]
[44]

Putting the Tools Together

A State has many options in selecting and developing an enforcement system comprised of a particular subset of these tools. Generally speaking, the “softer” voluntary approaches often supplement “harder” compliance and enforcement approaches. Moreover, these softer approaches can provide a step toward more formalized regulation; or they may provide an alternative approach to formal regulation. The specific context of the State and environmental situation will be important in deciding the most appropriate combination and role of the tools.

Focusing on the Regulated Community

Generally speaking, there are three types of actors in the regulated community. They may be termed:

- the “compliant” group,
- the “reactive” group, and
- the “resistant” group.

The compliant group believes in the rule of law and/or the importance of environmental priorities, and they will comply regardless of the actions that the Government takes. The reactive group will choose whether and how to comply based on actions by the Government (e.g., by providing incentives for compliance or enforcement actions that provide a disincentive to violate the law). The resistant group may not believe in governmental intervention in their business, and they will comply only if “forced” to do so. As such, direct enforcement is often necessary.

The specific orientation of the regulated community varies from State to State, sector to sector, and issue to issue. However, the general structure often follows a “bell curve,” with most members of the regulated community falling within the reactive group and fewer in the compliant and resistant groups.

Actions by the Government can shift the orientation of the regulated community to be more compliant. This may be done, for example, by providing effective incentives to support compliance as well as credible threats of enforcement to deter violations.



ENGAGING TRADITIONAL LEADERS IN GHANA

Traditional Leaders have combined spiritual, socio-economic and political leadership in Ghana. Their role in modern day democracy is not prominent in urban centres; in rural areas, however, they still wield significant power in decisionmaking. Ghana's 1992 Constitution guarantees the institution of Chieftaincy, including traditional councils as established by customary law and usage. Moreover, respect for traditional authorities remains strong in many areas. Accordingly, the effective implementation of MEAs – particularly those relating to rural areas and requiring local and decentralised measures to implement (e.g., CBD, UNCCD, CITES, etc.) – can depend upon effectively engaging traditional leaders.

Ghana has made various efforts to engage traditional leaders in decisionmaking processes relating to the environment and natural resources. Chiefs and traditional leaders are appointed as members of the Council of State and boards of public institutions. The current Board Chairman of the Environmental Protection Agency is an eminent traditional leader who has demonstrated his commitment to the environment in his area of jurisdiction.

For more information, contact epaed@epaghana.org or see <http://www.epaghana.org>



Additional Resources On Considerations In Structuring Environmental Compliance And Enforcement Programmes

Adriana N. Bianchi et al. (eds.), *Local Approaches to Environmental Compliance: Japanese Case Studies and Lessons for Developing Countries* (World Bank Institute 2005) (demonstrating how initiatives by communities and local governments played a key role in addressing pollution in Japan and considering the lessons for developing countries).

Environmental Law Institute, *Innovation, Cost and Environmental Regulation: Perspectives on Business, Policy and Legal Factors Affecting the Cost of Compliance* (1999), available at http://www.elistore.org/reports_detail.asp?ID=475

Daniel C. Esty & Michael E. Porter, "Ranking National Environmental Regulation and Performance: A Leading Indicator of Future Competitiveness?," in *The Global Competitiveness Report 2001-2* (2001).

Michael E. Porter & Claas van der Linde, "Toward a New Conception of the Environment-Competitiveness Relationship," in Durwood Zaelke et al., *Making Law Work: Environmental Compliance & Sustainable Development*, vol. 2, p. 441 (Cameron May 2005).

Lawrence Pratt & Carolina Mauri, "Environmental Enforcement and Compliance and Its Role in Enhancing Competitiveness in Developing Countries," in *Proceedings of the Seventh International Conference on Environmental Compliance and Enforcement*, vol. 1 (INECE 2005) available at http://www.inece.org/conference/7/vol1/Pratt_Mauri.pdf.

Additional Resources On Considerations In Structuring Environmental Compliance And Enforcement Programmes (Cont'd)

Rory Sullivan, *Rethinking Voluntary Approaches in Environmental Policy* (Elgar 2005) This book starts by noting that voluntary approaches, such as corporate codes of conduct, have been advocated as alternatives to traditional approaches to environmental regulation, while at the same time concerns remain that companies cannot be trusted to police themselves and that many of the putative advantages of self-regulation, such as reduced cost and increased flexibility, have not been realised in practice. This book analyses three initiatives (environmental management systems, the Australian Greenhouse Challenge and the Australian mining industry's Code for Environmental Management) and their contribution to public environmental policy. By moving the debate away from narrow considerations of economic efficiency toward a broader framework that accounts for the multiple goals to which environmental policy is directed, this book provides valuable insight into the role that voluntary approaches can play in achieving environmental policy goals.

William L. Thomas et al., *Crafting Superior Environmental Enforcement Solutions* (Environmental Law Institute 2000).

Durwood Zaelke et al., "What Reason Demands: Making Law Work for Sustainable Development," in Durwood Zaelke, Donald Kaniaru, & Eva Kruzikova, *Making Law Work: Environmental Compliance & Sustainable Development*, Vol. 1, p. 29 (Cameron May, 2005) (discussing the importance of environmental compliance and enforcement to rule of law, good governance, and sustainable development), available at http://www.inece.org/mlw/Chapter1_ZaelkeStilwellYoung.pdf

See also the case study on "Additional Resources on National Approaches to Environmental Implementation and Enforcement," below (Guideline 39).

Rationales Underlying Environmental Management Tools

In addition to the different tools outlined above, there are different approaches that may be used in crafting an environmental regime. These approaches can inform the selection of the tools and the development of the programme. The approaches can also provide guidance in implementation and enforcement. For example, laws may provide a declaration of guiding principles or include some other section that assists courts in interpreting the law.

Typical approaches include:

- Pollution prevention
- Polluter-pays
- Precaution
- Transparency and public participation
- Subsidiarity
- Sustainability (for example, in production and consumption)

Note: these approaches may derive from state practice, national objectives, or similar guidance. For more information on these concepts, see the various references cited in the case study at the end of the Primer on International Environmental Law, which appears at the beginning of Chapter I of this Manual.

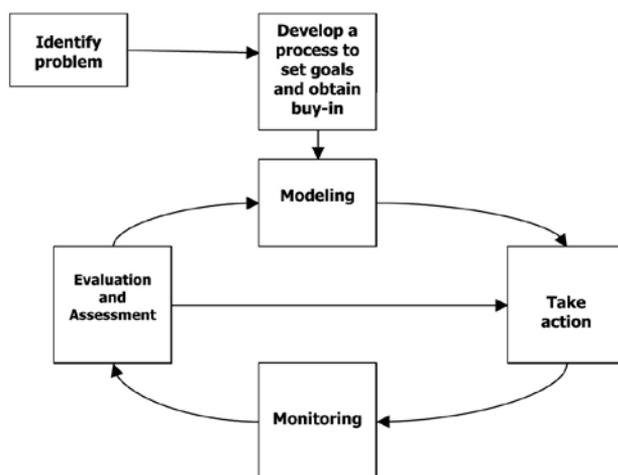
Framing An Environmental Regime

In practice, various approaches can be used in tandem to implement MEAs. Command-and-control approaches (through binding laws and regulations) often provide a framework governing a particular sector or matter. Voluntary approaches and market-based approaches often complement the command-and-control approaches by encouraging the regulated community not only to comply with the law but to go beyond compliance. Such measures are often preferred by industry, as they can offer industry more flexibility in terms of steps they take.

At the outset, it is important to note that developing, implementing, and enforcing an environmental regime is an evolving process. Governments rely on imperfect and incomplete information. Over time, the regulated community develops more capacity to comply with the standards, so more measures may be appropriate later in the process. Similarly, as the regulatory and enforcement officials gain experience they are more able to implement and enforce more sophisticated regulatory regimes. At the same time, certain measures may be overly restrictive for businesses, and other measures may achieve the same environmental goals while imposing fewer burdens on the Government or the regulated community.

Accordingly, Governments are encouraged to adopt an approach of adaptive environmental management with respect to environmental regimes. In this approach, measures are viewed as provisional and reviewed and revised periodically to account for new information. Thus, a Government may craft an environmental enforcement programme, collect information on the enforcement programme and its effectiveness, and then revise the programme in light of the information. Such an approach is necessarily iterative. This allows the Government to take certain measures, see what works and what does not, and then improve the system. Adaptive environmental management has been applied in the contexts of ecosystem management, grasslands, restoration projects, waterfowl, national parks and other protected areas, rivers, and development. The schematic diagram, below, illustrates the process.

Schematic diagram of adaptive environmental management (adapted from Chris Jacobson et al., "Towards an Adaptive Management that Recognizes Science and People," Paper presented at the 3rd International Wildlife Management Congress, Canterbury University, New Zealand (2003)).





Additional Resources On Adaptive Environmental Management

W.J. Allen, "The Role of Adaptive Environmental Management within Sustainable Development" (2001) http://nrm.massey.ac.nz/changelinks/thesis_ch2.html

C.S. Holling, *Adaptive Environmental Assessment and Management* (John Wiley & Sons 1978) (a key publication on the topic).

Kenneth J. Markowitz et al., "Improving Environmental Compliance and Enforcement Through Performance Measurement: The INECE Indicators Project," in Durwood Zaelke et al., *Making Law Work: Environmental Compliance and Sustainable Development*, Vol. 2, p. 337 (2005); earlier version available at <http://www.wcl.american.edu/org/sustainabledevelopment/pdf/spring04sdlp.pdf?rd=1>

Gary K. Meffe et al., *Ecosystem Management: Adaptive, Community-Based Conservation* (Island Press 2002).

John T. Scholz & Bruce Stiftel (eds.), *Adaptive Governance and Water Conflict: New Institutions for Collaborative Planning* (RFF 2005).

Michael M. Stahl, "Using Indicators to Lead Environmental Compliance and Enforcement Programs," in Durwood Zaelke et al., *Making Law Work: Environmental Compliance & Sustainable Development*, Vol. 2, p. 347 (Cameron May 2005), reprinted and available at http://www.inece.org/conference/7/vol1/32_Stahl.pdf

For more information on adaptive environmental management, see the discussion following Guideline 21. See also the discussion following Guideline 40; the case study on "Redrafting the Philippines Legislation on Access to Genetic Resources and Benefit Sharing (ABS)" following Guideline 40(b); and the case study on "Adjusting Penalties to be More Effective in St. Lucia" following Guideline 40(c).

Many States have become parties to MEAs, but have yet to effectively implement them. In such circumstances, a critical first step is to determine which MEAs have priority and to focus energies on developing the necessary implementing legislation and institutions. Risk-based approaches can assist States in prioritising MEAs (see, for example, Guideline 41(e) and accompanying discussion). Risk-based approaches to environmental management are relatively new. These approaches establish priorities based on the potential for reducing the risks posed to public health or the environment.

Given the number and range of environmental management tools and approaches available to a State, it can be difficult to know which ones are appropriate and how they should relate to one another. This Manual seeks to provide some guidance about the benefits and challenges of different approaches, but ultimately each State must decide upon which approaches it will rely.

In considering the options, a State may wish to consider: (1) which options are the most effective; (2) how much do they cost (to the regulated community, Government, etc.); and (3) which options are the most cost-effective. In some instances, economic or knowledge-based approaches are preferred; in others, legal tools are necessary. In reviewing the specific approaches, a State should consider whether a particular approach is feasible and desirable: What sorts of legal, institutional, or cultural reforms are necessary to make that approach work? Are the anticipated benefits worth the effort? Should the approach be implemented now, in the future, or phased in over some period?

For example, in determining whether certain market-based approaches are appropriate or feasible, a State should examine its particular context. Some approaches may require significant institutional developments or economic reform. Least developed countries, Small Island Developing States, and countries with economies in transition in particular may wish to consider which economic tools may be appropriate and which may entail significant economic or institutional reforms. It may still be desirable to use such tools, but it is important to be aware of the potential challenges and to plan accordingly.

In establishing or strengthening their legal and institutional systems for environmental enforcement, States may wish to consider the “enforcement pyramid” articulated by Ayres and Braithwaite and further developed by others (see figure below). The enforcement pyramid is a hierarchy of governmental responses, depending on the severity of the offense. For minor offenses, information, persuasion, and technical assistance might be sufficient to remedy the offense. As the offenses become more severe or persistent, the responses escalate through warnings to civil and criminal penalties and subsequently to facility closure, license revocation, and other bans.

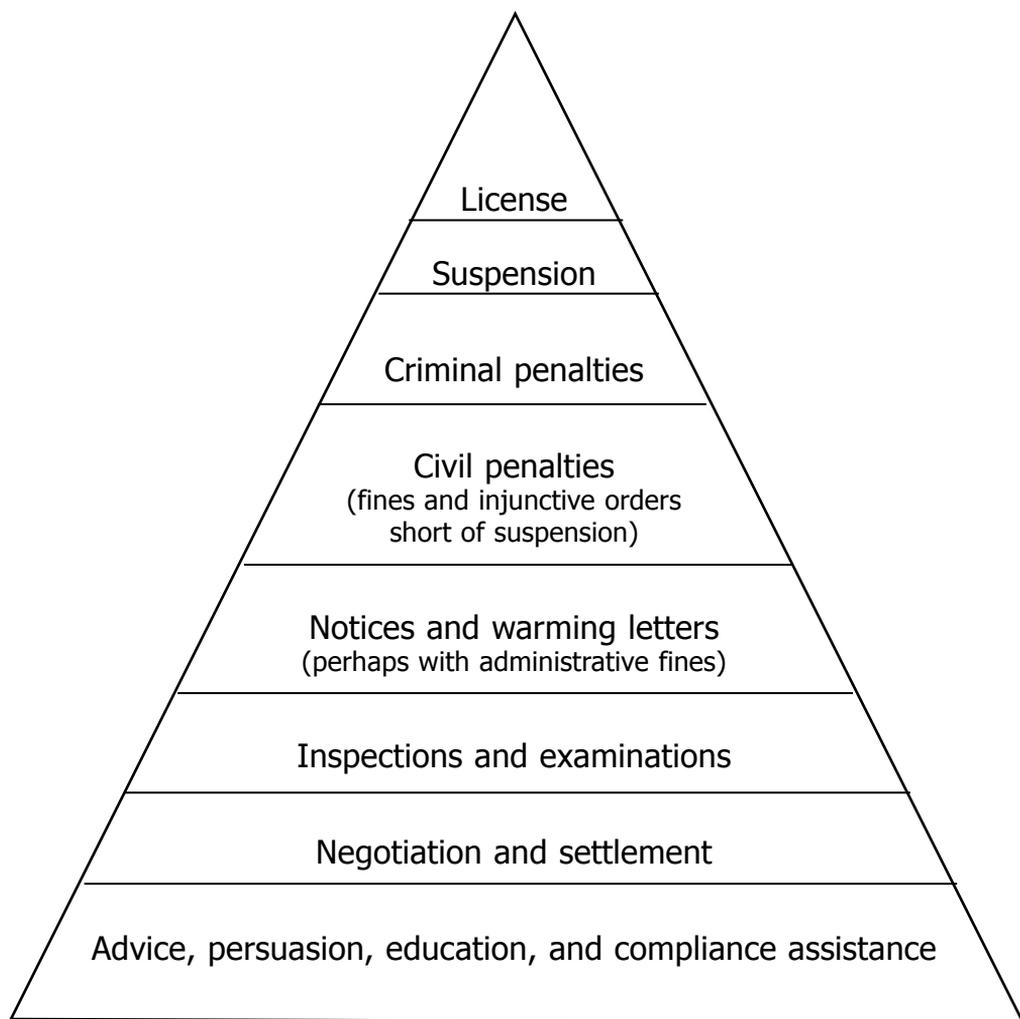


PRINCIPLES OF ENVIRONMENTAL ENFORCEMENT

In determining which approach or combination of approaches is most appropriate to a particular State or context, there are many resources that can be consulted. One of the best is Principles of Environmental Enforcement, which was prepared by the U.S. Environmental Protection Agency and has been a resource for enhancing environmental laws and institutions in many States. It is available in Chinese, English, French, Serbian, and Spanish at

<http://www.inece.org/enforcementprinciples.html>

For more information, contact: Director, International Compliance Assurance Division, USEPA (2254A), 1200 Pennsylvania Ave. NW, Washington, DC 20460, USA [telephone: +1-202-564-4108].



Enforcement Pyramid, adapted from I. Ayres & J. Braithwaite, Responsive Regulation: Transcending the Deregulation Debate (Oxford University Press 1992).

As implied by its triangular shape, a mature environmental enforcement system typically emphasises the more modest responses with severe penalties reserved for the most serious offenses (and when lesser measures are insufficient to ensure compliance or deter other violations). Using such an approach, prosecution is used as a last resort when other measures are ineffective. For more information on the enforcement pyramid, see *I. Ayres & J. Braithwaite, Responsive Regulation: Transcending the Deregulation Debate (Oxford University Press 1992)*.

Not all States would diagram their enforcement response in the specific way set forth in the pyramid, above. For example, some States might consider license suspensions and revocations to be part of an administrative response. These would be measures that could be applied by an agency and that might be considered by a court if challenged by the permitted entity. Those States might list civil enforcement, including penalties but

also injunctions and actions for damages and costs, to be one level above administrative responses in terms of severity, since these would require an order by a judicial authority. These same States would then have criminal penalties, which include imprisonment, at the pinnacle of the pyramid since those penalties might be deemed to be appropriate for the most egregious and intentional violations of environmental law. For an example of analysis of such an approach, see John C. Cruden & James W. Rubin, "Environmental Compliance and Enforcement at the United States Department of Justice and the Role of Enforcement in Good Domestic Governance," Proceedings of the Sixth International Conference on Environmental Compliance and Enforcement, vol. 2 (2002), available at <http://www.inece.org/conf/proceedings2/18-Env.%20Compliance.pdf>



A summary illustration of this alternative enforcement pyramid is provided below: There are a number of resources that can assist a country in reviewing options for an environmental regime. The country's own expertise is a good starting point. In addition to governmental staff, often expertise can be found in NGOs, universities, and the private sector, as well as in local government. In addition, UNEP, UNDP, FAO, the World Bank, regional development banks, and international NGOs often provide technical advice in this process. [The process of developing environmental legislation is discussed in more detail following Guideline 40.]





Additional Resources On Compliance and Enforcement Approaches in Federal States

- S. Bhatt & Akhtar Majeed (eds.), *Environmental Management and Federalism: The Federal Experience* (Uppal Publishing House 2002).
- John Braden et al. (eds.), *Environmental Policy with Political and Economic Integration: The European Union and the United States* (Elgar 1996) (including chapters on "Environmental Federalism in Europe and the United States: A Comparative Assessment of Regulation through the Agency of Member States" by James E. Pfander and "Which Level of Government Should be Responsible for Environmental Regulation? The Federalists versus Calhoun" by Perry Shapiro, as well as case studies on environmental federalism in the regulation of agriculture and in the regulation of water pollution).
- Nilima Chandiramani, *Environmental Federalism: An Indian Perspective*, available at http://www.esmpu.gov.br/publicacoes/meioambiente/pdf/Nilima_Chandiramani_Environmental_federalism_in_India.pdf
- Kenneth M. Holland et al. (eds.), *Federalism and the Environment: Environmental Policymaking in Australia, Canada, and the United States* (1996).
- R. Daniel Kelemen, "Regulatory Federalism: EU Environmental Policy in Comparative Perspective," 20(2) *Journal of Public Policy* 133-67 (2000).
- R. Daniel Kelemen, "Environmental Federalism in the US and the EU," in Norman Vig & Michael Faure (eds.), *Green Giants? Environmental Policy of the United States and the European Union* 113-34 (MIT Press, 2004).
- R. Daniel Kelemen, *The Rules of Federalism* (Harvard University Press 2004), available at <http://www.hup.harvard.edu/pdf/KELRUL.pdf> (examining environmental regulation in the EU, United States, , Australia, and Canada).
- Wallace E. Oates, *A Reconsideration of Environmental Federalism: Institutions and Regulatory Practices in the EU and Beyond* (Resources for the Future 2001), available at <http://www.rff.org/Documents/RFF-DP-01-54.pdf>
- Clifford Rechtschaffen & David L. Markell, *Reinventing Environmental Enforcement and the State/Federal Relationship* (Environmental Law Institute 2003) (providing an overview of environmental federalism, devolution, federal oversight of state enforcement, options for enhancing enforcement).
- Rene J.G.H. Seerden et al. (eds.), *Public Environmental Law in the European Union and the United States: A Comparative Analysis* (Kluwer Law International 2002).
- David Vogel et al., *Environmental Federalism in the European Union and the United States* (2003), available at <http://www.tilburguniversity.nl/globus/activities/conference/papers/vogel.pdf>



Additional Resources on National Approaches to Environmental Implementation And Enforcement

- Mark Cohen, "Empirical Research on the Deterrent Effects of Environmental Monitoring and Enforcement," *Environmental Law Reporter*, vol. 30, p. 10245 (2000).
- Nandin Dasgupta, "Environmental Enforcement and Small Industries in India: Reworking the Problem in the Poverty Context," *World Development*, vol. 28(5), p. 945 (2000).
- Robert M. Friedman et al., "Environmental Policy Instrument Choice: The Challenge of Competing Goals," *Duke Environmental Law & Policy Forum*, vol. 10, p. 327 (2000).
- Kathryn Harris, "Talking with the Donkey: Cooperative Approaches to Environmental Protection," *Journal of Industrial Ecology*, vol. 2(3), p. 51 (1998).
- Al Iannuzzi, Jr., *Industry Self-Regulation and Voluntary Environmental Compliance* (Lewis Publishers 2002).
- Timothy F. Malloy, "Regulation, Compliance and the Firm," *Temple Law Review*, vol. 76, p. 451 (2003) (presenting a normative theory of compliance focused on building capacity and commitments).
- Ngoc Sinh Nguyen & Van Vui Phung, "A Large Scale Survey Using Environmental Inspections to Assess and Enforce the Implementation of the Law on Environmental Protection in Vietnam, 1997," *Proceedings of the Fifth International Conference on Environmental Compliance and Enforcement*, vol. 1 (INECE 1998), available at <http://www.inece.org/5thvol1/vanvui.pdf>
- Clifford Rechtschaffen & David L. Markell, *Reinventing Environmental Enforcement and the State/Federal Relationship* (2003) (presenting a deterrence based model of compliance and enforcement).
- Regional Environment Center for Central and Eastern Europe, *Training Manual for Environmental Inspectorates in South Eastern Europe*, available at <http://www.rec.org/rec/Programs/RREP/BERCEN/PDF/BERCEN%20Training%20Manual.pdf>
- Benjamin J. Richardson & Stepan Wood (eds.), *Environmental Law for Sustainability* (Hart Publishing 2006) (providing international and comparative perspectives on environmental law around the world).
- Nicholas A. Robinson (ed.), *Comparative Environmental Law and Regulation* (Oceana Publications 1996).
- UNEP, *Voluntary Initiatives for the Protection of the Marine Environment* (UNEP 2001) (compiling lessons learned in the application of voluntary initiatives designed to protect the marine environment, drawing upon case studies, questionnaires, and interviews).
- U.S. Congress, Office of Technology Assessment, *Environmental Policy Tools: A User's Guide*, OTA-ENV-6334 (U.S. Government Printing Office 1995).
- Michael Vandenberg, "Order Without Social Norms: How Personal Norm Activation Can Protect the Environment," *Northwestern University Law Review*, vol. 99, p.1101 (2005) (arguing that focused public information campaigns can be used to activate personal norms to protect the environment).
- Michael P. Vandenberg, "Beyond Elegance: A Testable Typology of Social Norms in Corporate Environmental Compliance," *Stanford Environmental Law Journal*, vol. 22, p. 55 (2003) (presenting a topology of eight social norms that influence environmental compliance).
- Durwood Zaelke et al., "Compliance Theories," in Durwood Zaelke et al., *Making Law Work: Environmental Compliance & Sustainable Development*, vol. 1, p. 53 (Cameron May 2005) (summarising the major theoretical approaches to environmental compliance and enforcement).
- See also the case study on "Additional Resources on Considerations in Structuring Environmental Compliance and Enforcement Programmes," (Guideline 39).

✓ CHECKLIST FOR ESTABLISHING NATIONAL ENVIRONMENTAL REGIMES

Environmental regimes can entail a variety of policies and approaches to promote their effectiveness. Some of these include:

- Legal tools [see Guideline 40], including
 - Command-and-control approaches
 - Responsive regulation
 - Liability
- Economic tools [see Guideline 41(g)], including
 - Green taxes and subsidies
 - Emissions trading
- Voluntary tools
 - Information-based tools
 - Collaborative management approaches
 - Customary tools



[40]

[40(c)]

[41(g)]

In establishing the environmental enforcement regime, a State can utilise the enforcement pyramid to tailor enforcement responses to the severity of the offence:

- Advice, persuasion, information, and compliance assistance
- Negotiation and settlement
- Inspections and examinations
- Notices and warning letters (administrative penalties)
- Civil penalties
- Criminal penalties (with both corporate and individual criminal liability, including imprisonment)
- License suspension
- License revocation, closure, and other more permanent measures

For more information on penalties and sanctions, see Guideline 40(c) and accompanying text.

C. National Laws and Regulations

[40] *The laws and regulations should be:*

- (a) Clearly stated with well-defined objectives, giving fair notice to the appropriate community of requirements and relevant sanctions and enabling effective implementation of multilateral environmental agreements;*
- (b) Technically, economically and socially feasible to implement, monitor and enforce effectively and provide standards that are objectively quantifiable to ensure consistency, transparency and fairness in enforcement;*
- (c) Comprehensive with appropriate and proportionate penalties for environmental law violations. These would encourage compliance by raising the cost of non-compliance above that of compliance. For environmental crime, additional deterrent effect can be obtained through sanctions such as imprisonment, fines, confiscation of equipment and other materials, disbarment from practice or trade and confiscation of the proceeds of environmental crime. Remedial costs should be imposed such as those for redressing environmental damage, loss of use of natural resources and harm from pollution and recovery of costs of remediation, restoration or mitigation.*

An important part of national level enforcement of a State's obligations under multilateral environmental agreements is the incorporation of international law into national law. The Guidelines emphasise the importance of clarity, feasibility and thoroughness when it comes to the "enforceability" of national environmental laws implementing MEAs (See Guidelines 40(a-c)).

International agreements (such as MEAs) are generally incorporated into national law by either re-enactment or reference. Incorporation by re-enactment refers to the implementation of international law through the development of detailed national law. Incorporation by reference means the development of national law that requires an international agreement be complied with simply by referring to it, without "translating" all of its details in the national law.

Methods for Incorporating International Environmental Law into National Law

Incorporation by re-enactment. Incorporation by re-enactment translates institutional, administrative, regulatory and penal measures required by the MEA into domestic law at the time when the legislation is passed. This method also allows the state to translate any "soft law" (non-binding) type obligations into "hard" (binding) law if it so desires.

Incorporation by reference. Incorporation by reference has the advantage of speed and simplicity. Ratification need not be delayed for legislative considerations and the giving of "the force of law." Incorporation by reference does not necessarily create the required institutions or administrative arrangement in domestic law.

Adaptively Developing Implementing Legislation

When developing legislation and institutions to implement MEAs, States often consider the approaches of other States (particularly those in the same region and with similar legal systems). Thus, later legislative efforts are able to learn from the successes and challenges of earlier laws in other States.

For example, in the Caribbean, the first developing country to adopt legislation implementing the Montreal Protocol based the law on a UNEP manual on the topic and on Australia's law. Since then, meetings of the Ozone Officer's Network have provided an ongoing venue in which officers can discuss their difficulties and share experiences on best practices [see case study on "Regional Networks and South-South Cooperation to Assist Countries in Complying with the Montreal Protocol" following Guideline 34(c)]. UNEP also participates in these meetings, as it is the main implementing agency for developing licensing systems and customs training. Through these meetings, Caribbean nations have learned from and build upon experiences in other Caribbean nations. In doing so, they have drafted more effective laws that closed potential loopholes.



[34(c)]

CH II - C

The OECD's "Guiding Principles for Reform of Environmental Enforcement Authorities in EECCA" encourage countries to pursue an approach of adaptive management to enhance environmental enforcement with "an iterative regulatory process." In particular, "[a]n enforcement agency should actively promote, and rely on, feedback between inspection and permitting, and between these two and legislative development. Also, better assessment of compliance requires feedback between ambient monitoring and inspection." To support this process, the Guiding Principles call for the development and application of environmental indicators.



[34(c)]

[39]

For more information, see <http://www.oecd.org/dataoecd/36/51/26756552.pdf>. For more information on environmental enforcement and compliance indicators, see also the case study on INECE, following Guideline 34(c).

For more information on adaptive environmental management in the development of environmental legislation, see the discussion on the topic following Guideline 39.

Process for Developing Implementing Laws

There are a variety of options for scope of legislation implementing an MEA. These depend to a certain extent on the MEA, existing legislation that relates to the topic of the MEA, and the capacity of the State. Some options include:

- Developing a single implementing law for an MEA. If there is existing legislation that bears on the topic, this law could either amend or trump prior law. For clarity, it is usually preferable to amend prior legislation, rather than leaving a potentially confusing body of legislation for the regulated community and enforcement officials to try to figure out which of the various laws applies.
- Amending existing legislation. For example, when Belize implemented the Montreal Protocol, it amended its existing pollution control regulations legislation to include the new commitments.

- Where there is a substantial body of existing law, it may be necessary to amend many laws. This can be done through a single law or through more than one legislative enactment.
- Conversely, a State can develop a single law that implements a related cluster of MEAs. For example, a State could adopt a biodiversity law that implements the CBD, CITES, CMS, the Ramsar Convention, and/or other biodiversity-related MEAs. [See discussion below and following Guideline 34(h).] This process can lead to a more coherent and holistic treatment of a particular sector, but it can also entail a wider ranging review of existing legislation.



34(h)

In many regards, the most important issue is the process for developing the implementing laws. The process can highlight the relative merits of a law with a narrower or broader scope. Moreover, the process can profoundly influence the effectiveness of the law and the extent to which it is accepted by the regulated community, the public, and by the relevant governmental officials charged with implementing and enforcing the law.



INTER-AGENCY COOPERATION IN DRAFTING A CITES LAW FOR ST. LUCIA

In drafting its national CITES law, St. Lucia started with model legislation prepared by the CITES Secretariat. In order to engage the wide range of governmental offices who are essential to the effective implementation of CITES, St. Lucia convened a working group made up of representatives from the Fisheries Department, Forestry Department, Biodiversity Office, Customs and Excise, Department of Agriculture, Veterinary Services, Quarantine Services, and Department of Commerce to tailor the law to the specific legal, institutional, and social context of St. Lucia. The Attorney General's legal drafting office was the lead collaborating agency with the Fisheries Department.

After a long and instructive process that saw more than 10 iterations of the draft Act, St. Lucia is poised to formally adopt the legislation in 2006. Even before St. Lucia's draft Act was completed, the CITES Secretariat used it as a model for other States around the world needing assistance in drafting implementing legislation, since St. Lucia's version deals with many practical issues.

For more, contact Mrs. Dawn Pierre-Nathoniel at +758-4684141/36 or deptfish@slumaffe.org

Laws may be drafted by:

- a line ministry;
- Members of Parliament or the relevant Parliamentary committee (if so provided);
- a working group or inter-sectoral governmental committee (e.g., see case study on St. Lucia below); or
- members of the public (e.g., see case studies from Georgia and Brazil following Guideline 41(k)); or
- consultants (see discussion below on “Assistance in Developing Environmental laws).

To some extent, the process for drafting legislation may be dictated by how an MEA is ratified. For example, in Tajikistan and some other States, if an MEA is approved through presidential decree (rather than by Parliament), then the Government takes the lead in developing implementing legislation.

At the outset, it is important to understand why action is necessary. For example, when South Africa developed its hazardous waste management law, the Government conducted a needs assessment to identify problems with the management of hazardous waste in the State. Then, the lawyers developed draft language to address the problems. The Ministry of Environmental Affairs and Tourism, the provincial governments, and other relevant governmental institutions (e.g., those responsible for transport and agriculture) were then consulted. Following those internal consultations, the Government gazetted the draft law and invited comments from stakeholders and other members of the public. Finally, the law was revised and sent to Parliament.

Rather than reinventing the wheel in the legislative drafting process, it helps to know what are some of the legal options. States frequently look to:

- Legislation from other States. In reviewing the laws of other States to identify legislative options, the Internet can be a powerful tool for accessing the legal texts. [See Annex VII on “Selected Internet Resources”.] In addition, UNEP’s Partnership for Development of Environmental Law and Institutions in Africa (PADELIA) has compiled environmental laws from throughout Africa (see <http://www.unep.org/padelia>).
- Model legislation. MEA Secretariats, regional institutions, and NGOs have prepared a variety of model laws to assist in implementing MEAs.

In both instances, States should consider these as illustrative. Some things may translate well to their State; others may not. Even if a law or model law is considered to be “good,” it may need to be amended to be effective in the particular legal, social, institutional, and economic context of the State. That said, experiences from other States and model laws can help to facilitate harmonisation of legislation, particularly within a region or sub-region. [For more information on legislative harmonisation, see Guideline 46 and accompanying discussion.]



[46]

Since the effective implementation and enforcement of environmental laws and MEAs often requires many different actors, many States have found it constructive to involve a range of governmental institutions in drafting environmental laws. For example, to enhance the enforceability of environmental laws, some States include enforcement personnel on the legal drafting committees. In Saint Vincent and the Grenadines, police on the drafting committee recommended that environmental legislation specifically mention the role of police in enforcing the law. [Experience had shown that enforcement was greatly enhanced when police were expressly referenced, as they then understood that environmental enforcement was part of their responsibility.] In Jamaica, enforcement personnel have assisted in drafting legislation to implement the CBD and the regional Protocol Concerning Specially Protected Areas and Wildlife (SPA). Similarly, in the Bahamas, the committee to draft legislation implementing the Montreal Protocol was co-chaired by an enforcement official and a person from the private sector. [The Attorney General was also there to provide legal advice, indicating the implications of one legal formulation or another.]

In most States, implementing laws are drafted by governmental ministries or agencies and discussed by Parliaments. Increasingly, though, Members of Parliament are involved in the legislative process. For example, in its transition to democracy, the Nigerian Government has worked with the Legislature to build their capacity to be involved in developing environmental laws. Now, the Senate and the House each have an environment committee and a committee on habitat.

UNEP's PADELIA has assisted many African States in developing environmental laws. In some of these States, environmental bills had stalled in Parliament because the Members of Parliament had not been properly briefed. Now, whenever there is an environmental bill to be introduced and discussed in Parliament, the Government in partnership with UNEP convenes a workshop for Parliamentarians on the bill. At this workshop, the Government briefs Members of Parliament on the rationale for the bill and explains its salient points. These workshops have facilitated the subsequent review, debate, and passage of environmental laws.

Public review and comment helps to build support for the law that is finally adopted. Public review can also help to strengthen the substantive aspects of the law. As described above, South Africa sought input from stakeholders and members of the public when drafting legislation to manage hazardous waste. Trinidad & Tobago held national-level consultations with a wide range of stakeholders when developing legislation to implement MARPOL (the law passed easily). In addition to enacted legislation and other resources, Jamaica places draft legislation on its web site and has a process for incorporating the comments that the Government receives.

For more information on public participation in making environmental laws, regulations, and policies, see Guideline 41(k) and accompanying text.



[41(k)]



DEVELOPING A FRAMEWORK ENVIRONMENTAL LAW IN SUDAN

Starting in the 1980s, the Sudanese Environment Conservation Society (SECS) initiated a process to compile laws relating to the environment. In 1994, the Higher Council for Environment and Natural Resources (HCENR) established a National Committee consisting of representatives from the Attorney General Chambers, the Faculty of Law, and SECS to collect the sectoral laws that have some bearing on the environment, review the MEAs to which Sudan is a party, and prepare a draft framework environmental law. A series of workshops discussed the findings of the National Committee, and several governmental organizations participated in these discussions, including the Ministry of Agriculture, the National Forest Corporation, the Ministry of Justice, and the Ministry of Animal Resources, as well as SECS. The HCENR solicited the assistance of UNEP, which provided a consultant in environmental law. The consultant visited Sudan twice, at which time he consulted various governmental and non-governmental organisations for their views on the needs, constraints, and context of the State. The consultant prepared a technical report about the environmental laws in Sudan based on the work of the National Committee and assisted in the compilation of a framework environmental legislation. This framework law was discussed in a 1996 workshop in Khartoum.



These efforts culminated in the enactment of the Environmental Protection Act in 2001. The Act includes a provision on compliance with international conventions. It states that the HCENR is the authority charged with undertaking to apply the rules of the international conventions, bilateral and international protocols, which the government has ratified, is about to ratify, or will join in the future. The HCENR is also responsible for collaborating with the appropriate authorities to ensure that national laws conform with MEAs.

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Synergetic Implementation of MEAs: Integration into National Laws

As highlighted in the discussion of Guidelines 10(e) and 34(h), different MEAs often touch on a single subject. In order to develop legislation to implement an MEA, one approach is to develop MEA-specific legislation. Increasingly, States are considering ways to develop legislation that implements a group of related MEAs in an integrated and holistic manner. This has a number of added benefits. First and foremost, it reduces potential overlaps, gaps, conflicts, and confusion at the national level between different laws that implement related MEAs. Synergetic implementation of MEAs can help to clarify the institutional

responsibilities and competences, particularly where different institutions are working on aspects of the same topic. The development of a law implementing multiple MEAs can also be more efficient (taking less time and resources) than promulgating multiple laws that each implement a single MEA.



Legislation can fully implement a group of related MEAs. For example, a national biodiversity law could implement the CBD, CITES, CMS, Ramsar Convention, and/or other biodiversity-related agreements. Similarly, a national law on hazardous substances (or on waste) could implement the Basel Convention (on hazardous wastes), the Stockholm Convention (on persistent organic pollutants, or “POPs”), and/or the Rotterdam Convention (on prior informed consent, or “PIC”). It could also implement the Montreal Protocol (on ozone-depleting substances, or “ODS”) or the UN Framework Convention on Climate Change.

Sectoral legislation can often cut across MEAs. For example, there is no comprehensive MEA that addresses forestry issues or that addresses water issues. However, various provisions of MEAs often bear on sectoral laws. Thus, when Uganda updated its forestry legislation, it sought to implement the relevant provisions from the Convention on Biological Diversity, as well as provisions from Agenda 21 and other international soft law. Liberia is going through a similar process in revising its forest legislation and regulations to incorporate its various international commitments.

Many States are conducting National Capacity Self-Assessments (NCSAs) with assistance from the Global Environment Facility (GEF) and the GEF implementing agencies. These NCSAs provide a framework for examining a State’s progress in implementing the three “Rio Agreements” — UNFCCC, CBD, and UNCCD — as well as other MEAs that the State may wish to consider. NCSAs also seek to identify priorities for further implementation of these MEAs, including legislative development. The analytic framework of the NCSA emphasises synergies among MEAs, and thus provides an opportunity to identify possibilities for synergetic implementation of MEAs in national legislation. For more information on the NCSA process, see the explanatory text and case studies following Guideline 41(n), as well as explanatory text following Guideline 34(h).



Cost-Benefit Analysis of Proposed Environmental Laws and Regulations

A growing number of States are examining how to use cost-benefit analysis when developing laws and regulations. A few examples are discussed below, as with some of the limitations of cost-benefit analysis. While the limitations often are real, cost-benefit analysis can be an important tool in assisting Governmental bodies, the private sector, and civil society



ISSUE-BASED MODULES TO FACILITATE SYNERGETIC IMPLEMENTATION OF RELATED MEAS

In order to provide practical guidance on how to implement clusters of related agreements in a more effective and efficient way, UNEP is partnering with the UNEP World Conservation Monitoring Centre (UNEP-WCMC) and the World Conservation Union (IUCN) to develop Issue-Based Modules on topics that cut across related MEAs. This is done in close cooperation with the Secretariats of the five global biodiversity-related conventions – Convention on Biological Diversity (CBD), Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), Convention on Migratory Species (CMS), Ramsar Convention, and World Heritage Convention. The Secretariats of the related climate change (UNFCCC) and desertification (UNCCD) conventions are also invited to participate. The project is being supported by the Belgian Government.

The Secretariats of the five biodiversity-related conventions identified four priority cross-cutting issues as issues of common concern to all five conventions. These issues are: climate change, inland water, invasive alien species, and sustainable use.

The modules will provide structured information on those four issues by identifying and grouping implementation requirements under the different agreements. The modules are based on existing articles, decisions, recommendations, and resolutions and do not impose extra requirements on Parties. They will be updated regularly to reflect relevant decisions taken at the governing bodies of the MEAs.

Both UNEP-WCMC and IUCN are collaborating with UNEP to support the development of the issue-based modules: IUCN has developed the two modules on climate change and sustainable use, while UNEP-WCMC developed the two modules on inland water and invasive alien species.

To provide easy access to a large amount of information and to facilitate the distribution and use of the modules, a Web site was developed. This Web site contains the four modules, as well as the text of the articles, decisions, recommendations, and resolutions that are referred to in the modules. It also provides users with some background information on the reviewed agreements to increase mutual understanding among experts of the different agreements.

The text and the database are still in draft form (as of February 2006). As such, the Web site facilitates the peer review process, and thereby ensures the involvement of end-users throughout the project. This transparent and participatory process seeks to ensure that the end-product is useful and relevant. Draft versions of the modules are available on the Web site in English, French, and Russian.

For more information, see <http://www.svs-unepibmdb.net>



Additional Resources on Synergetic Integration of MEAs into National Laws

Implementation of Multilateral Environmental Agreements for Efficient Water Management (2005), by the Foundation for International Environmental Law and Development (FIELD) (examining how national implementation plans under various MEAs can provide guidance in designing and applying national water policies and promoting integrated water resource management).

in identifying the various potential benefits and costs. This process can improve the deliberative process and help to ensure that the final decision is an informed decision.

In addition to laws and regulations, cost-benefit analyses can be conducted for broad policy decisions. For example, Defenders of Wildlife (an NGO) produced an award-winning publication to explain the economic benefits of conserving the natural resources in a particular area to a broad public audience (see *Investing in Nature: The Economic Benefits of Conserving Natural Areas in Northeast Florida (2004)*, available at <http://www.biodiversitypartners.org/econ/pub/Investing%20In%20Nature-FINAL.pdf>).

[Note: As discussed in the case study below on “Limitations of Cost Benefit Analysis,” cost-benefit analysis does not necessarily imply that the benefits must outweigh the costs. Other, non-economic benefits may compel a State to make a decision that has a net economic cost.]

Assistance in Developing Environmental Laws

In many States, and especially in developing countries, there are significant challenges in developing environmental laws, including those necessary to implement MEAs. Governmental offices responsible for drafting legislation and regulations to implement MEAs have a limited number of staff. As a result, there is often too much work for the available staff, and implementing laws can take a long time to draft (let alone go through



FINANCIAL ANALYSIS OF PROPOSED LEGISLATIVE ACTIONS IN MACEDONIA

In Macedonia, the Rules of Procedure for Work of the Government requires a governmental agency to perform a financial analysis before the signing, ratifying, or adopting of legislation (including international instruments). This analysis is done by completing a Form for Financial Implications. This financial analysis needs to be done at each stage in the decisionmaking process.

Thus, for example, prior to signing a Protocol on Strategic Environmental Assessment (SEA) to the Espoo Convention (a UNECE Convention governing environmental impact assessment in a transboundary context), Macedonia performed a financial analysis. The financial analysis revealed that at that stage there would be no financial implications for Macedonia. Macedonia signed the Protocol on 21 May 2003. In the next steps, when Macedonia decides whether to ratify the Protocol or to adopt the national legislation for SEA, there will be separate financial analyses regarding the potential financial implications.

For more information, contact Ms. Daniela Stefkova at D.Stefkova@moepp.gov.mk



COST ESTIMATES IN ROMANIA

In the process of acceding to the European Union, Romania has developed cost estimates for every Directive. It is now planning to extend cost estimates to MEAs, laws, and regulations. Cost estimates are part of the implementation plans, and now the financial strategy is under development.

For more information, contact oanas@mappm.ro



CITES PROJECT ON COST-BENEFIT ANALYSIS OF WILDLIFE IN MADAGASCAR

Madagascar is a major centre of biodiversity with many unique species of plants and animals. A significant number of these are rare, and some are threatened with extinction. The State also exports significant volumes of wildlife and wildlife products, both plant and animal, for commercial purposes. These exports involve a wide range of species and are subject to a complex system of national and international regulations. In addition, there is notable export of specimens for non-commercial purposes, primarily for scientific research. The trade brings significant economic benefits to those directly involved in it as well as generating income for the Government (through export taxes and license fees). Some economic benefits accrue to individuals in rural areas, although this is a small fraction of the overall value of the trade.

A country-wide review of Madagascar's trade in species that are listed in Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) (namely those species that could become threatened unless trade is closely controlled) resulted in a five-year CITES Action Plan and a series of recommendations. The Action Plan and recommendations were developed by the CITES Animals and Plants Committees together with key Malagasy stakeholders, and finalized in 2003. One of the stated objectives of the Action Plan seeks to establish a national policy and legislative framework for managing wildlife in Madagascar. To be internally consistent, to adhere to international norms, and to support appropriate management decisions, the Action Plan also envisioned a cost-benefit analysis of wildlife trade in Madagascar and of different regulatory regimes to govern wildlife trade.

This cost-benefit analysis should support the policy framework by facilitating systematic implementation of CITES requirements and helping to ensure that wildlife strategies become an important component of national development plans in Madagascar, which is a mega-biodiversity country. The analysis can also contribute to the achievement of other objectives, such as setting priorities and improving the capacity and coordination between national agencies responsible for regulating wildlife trade (thereby promoting good governance). In this connection, the analysis should establish linkages as appropriate with international organisations working on wildlife-trade-related issues, such as CBD, TRAFFIC, FFI, and IUCN. There is some discussion in Madagascar

CITES Project on Cost-Benefit Analysis of Wildlife in Madagascar (cont'd)

about the relative merits of banning the export of certain or many species, compared to the existing regime of authorised, regulated trade. Some observers suggest that an absolute trade ban would be a simpler and more cost-effective way to ensure the preservation of wildlife, given the limited national regulatory capacity and the potentially high costs of ensuring legal trade. Others argue that imposing an absolute ban would be as costly to enforce as controlling a regulated trade, might never become fully effective, and could undermine rural incomes and potentially sustainable economic activities.

The proposed cost-benefit analysis (CBA) of alternative regulatory regimes to govern the wildlife trade in Madagascar has not been conducted yet owing to the lack of financial resources. As of early 2006, Malagasy authorities and donors are negotiating the budget and the logistics related to its implementation. The Terms of Reference developed by the CITES Secretariat to achieve the objectives mentioned above includes a brief overview of the wildlife trade in Madagascar and the existing regulatory regime, as well as key issues of concern from the perspective of CITES. The Terms of Reference outline the proposed objectives of the study and the activities to be carried out, as well as the arrangements for supervision and reporting, a provisional timetable, consultant profile, budget, and payment schedule.

For more information, please contact the CITES Management Authority of Madagascar at m_andriamananoro@yahoo.fr



REGULATORY IMPACT ASSESSMENT AND COST-BENEFIT ANALYSIS IN UGANDA

In Uganda, a Regulatory Impact Assessment (RIA) is required for all policy and regulatory proposals. A RIA is an analysis of the likely benefits and costs associated with the proposed policy or regulation. It establishes a process by which the government and the public can better understand the full range of potential consequences that the proposal may have on society. The principle of RIA is evidence-based policymaking – RIA seeks to improve the quality of policy and regulatory decisionmaking by examining evidence regarding the potential effects of proposed decisions. Key features of a RIA are:

- A brief, clear introduction that explains the proposed regulation and what the regulation intends to address;
- An explanation and quantification of benefits expected to arise from the proposed regulation, including the main benefits to those affected as well as indirect benefits;
- An assessment of the likely costs, including the main direct costs likely to fall on businesses, government, the environment, and consumers, as well as policy compliance costs and indirect costs; and

Regulatory Impact Assessment and Cost-Benefit Analysis in Uganda (cont'd)

- A clear bottom line on the amount of the net benefits.

The RIA process is administered by the Ministry of Finance, in coordination with the relevant line ministry or agency (which for environmental matters is the National Environmental Management Authority). RIAs have just started to be applied to draft environmental policies and regulations, including the National Environment (Control of Smoking in Public Places) Regulations 2004 and the National Environment (Certification and Registration of Environmental Practitioners) Regulations, 2003. RIA has yet to be applied directly to decisions regarding the negotiation or implementation of MEAs.

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LIMITATIONS OF COST-BENEFIT ANALYSIS

Cost-benefit analysis (CBA) can be a useful tool for highlighting the potential costs and benefits of a proposed decision and its alternatives. As discussed here and at the beginning of Chapter I (“Assessing Benefits and Costs of Ratifying, Complying with, and Enforcing MEAs”), CBA can be used in deciding whether to become a Party to an MEA and what form of regulation or implementing activities are most cost-effective. However, there are many limitations that need to be recognised. These include:

- Benefits often can be more difficult to quantify than costs. Costs often relate to those incurred by businesses. These costs can be in the form of added capital investment, added transaction costs (e.g., disposal of hazardous waste, rather than regular solid waste), decreased market share, or other impacts that readily lend themselves to economic quantification. In contrast, many of the benefits of an MEA are non-economic, and economic analysis seeks to translate these benefits into financial terms.
- Cost-benefit analysis is inexact. While cost-benefit analysis is common in many contexts, it can yield dramatically different numbers, especially as different methodologies for assigning economic values to non-economic benefits can vary significantly. For example, the cost of remediating a site damaged by hazardous waste can be much more than the owner would be willing to accept for payment of the site, and that amount could be more than the owner could pay to prevent the harm, which could be much more than yet another measure of “value.”
- Cost-benefit analysis often includes subjective assumptions regarding non-economic values. Another reason that cost-benefit analysis remains imperfect is that economists often have to make assumptions regarding the financial value of non-economic values, whether they are costs or benefits.

Limitations of Cost-Benefit Analysis (cont'd)

For example, what is the economic value of a State's international reputation and standing?

- Shared benefits can be underestimated. While it may be relatively straightforward to assess the immediate costs of regulation, shared benefits can be difficult to estimate. For example, how would a State estimate the benefits from implementing the Ozone MEAs? The benefits are shared by all in the world. Yet, the benefits of implementation by one particular State to the overall protection of the ozone layer may be incremental and modest. And the benefits to that particular State of it implementing the Ozone MEAs would be only a subset of the overall benefits. When weighed against the direct costs to the domestic industry, the benefits to the State may at first glance seem to be greatly outweighed by the costs. However, this is an example of the need for collective compliance — in order for the system to work and for any nation to benefit, all must comply. When all comply, all benefit. The more narrow analysis of weighing the costs that are directly accrued versus the shared benefits can lead to what is famously known as the Tragedy of the Commons.
- Limited capacity. Environmental economics is a new discipline in most developing countries. Accordingly, most developing countries have few economists who could accurately assess the potential environmental and public health benefits of an MEA or environmental legislation. Similarly, many economists would have difficulties accurately assessing the impacts of regulatory measures on domestic industry. Experience in a number of Western countries shows that — even where there are a surfeit of PhD economists — estimates of economic impacts of regulation on business often far exceed the actual costs.
- Institutional bias and conflict. MEAs often are developed based on scientific assessment. This assessment identifies the potential problem(s) and then identifies measures necessary to address the problem. Cost-benefit analysis, is often conducted within the Ministry of Finance, which is not primarily concerned with environmental matters.
- Cost-benefit analysis does not always yield robust numbers. For the reasons above, the results of a cost-benefit analysis may not be accurate. While the process usually highlights the various qualitative costs and benefits, the process of assessing the actual quantitative values can be quite contentious.
- Underlying legal authority may not allow direct consideration of economic cost or set protection at extremely high levels regardless of costs. Particularly where a hazardous or extremely dangerous material or public harm may be at issue, the relevant statutory authority may require regulations based on addressing public harm without an explicit consideration of economic cost. For example, regulations may set very high protective levels, such as for exposure of children to pesticides, that may be more protective than science and costs might ordinarily warrant, but are supported by a precautionary approach.

Limitations of Cost-Benefit Analysis(cont'd)

As a result of these limitations, countries may wish to use cost-benefit analysis carefully. Cost-benefit analysis can help to inform decisions, but ultimately it is only one of the tools available to countries. While the economic costs of implementing, complying with, and enforcing an MEA may be higher than the quantifiable benefits, there may still be compelling reasons to implement and enforce the MEA. Many of these reasons are outlined in the discussion on “Assessing Benefits and Costs of Ratifying, Complying with, and Enforcing MEAs.”

In this sense, cost-benefit analysis is similar to environmental impact assessment. In both instances, attempts are made to identify the potential impacts (positive and negative) of a decision. While it may be desirable to select the option that has a net economic or environmental benefit, respectively, there may be other, overriding reasons for selecting a different option. The key point is that cost-benefit analysis (and EIA) helps to ensure that the final decision is an informed decision.

CHECKLIST FOR ECONOMIC VALUATION STUDIES

Economic valuation studies can be done for many purposes. They can serve as the core for:

- cost-benefit analyses (e.g., for deciding whether to become a Party to an MEA or for examining legal or regulatory options), or
- assessing damage to natural resources and the environment (e.g., in deciding an appropriate penalty in a case.)

In conducting an economic valuation, States and the individuals performing the valuation may consider the following:

- Start the analysis simply, with the most easily valued environmental impacts. Any analysis will quickly become complicated, so it is important to focus on the major environmental issues, and especially those where valuation is most feasible. This often means a focus on production or health impacts. In other situations it may be loss of recreational benefits.
- Recognise the symmetry between benefits and costs. In the case of air or water pollution, health costs avoided (including costs of treatment, drugs, and lost work-days) are an important measure of the benefits from pollution reduction.
- Always carry out the analysis in a with-intervention and without-intervention framework. The correct comparison is not between now and some time in the future, but rather between what would be the situation with the intervention, versus what would be the situation without the intervention. In some cases conditions may worsen over time, even with the proposed intervention, but would have become even worse had no action been taken.
- State all assumptions explicitly, and identify data used and any additional data needs. Others can assess the analysis and results only if they clearly understand the assumptions and data used. Such understanding will allow replication of the analysis using alternative assumptions and/or data.
- Finally, valuation studies should be well documented and should pass peer review. This step helps ensure that the results are credible and can be used for policy analysis.

Source: OECD Background Paper on Valuing Environmental Benefits and Damages in the NIS: Opportunities to Integrate Environmental Concerns into Policy and Investment Decisions, available at:

<http://www.oecd.org/dataoecd/22/48/2382184.pdf>

See also case study on "Resources on Defining and Valuing Environmental Damage" following Guideline 40(c) and discussion of economic instruments following Guideline 41(g).



[40(c)]
[41(g)]

the political process of debate, amendment, and adoption). In some States, requests from environmental agencies to the Attorney General, Ministry of Justice, or other institutions responsible for drafting legislation sometimes may not be addressed for more than a year. Even when staff is available to work on implementing legislation, they often lack the detailed technical and legal capacity that is necessary to develop effective implementing legislation.

Taking this context into account, there are a number of institutions that can provide targeted assistance in developing the necessary laws. Notwithstanding these difficulties, though, legal draftsmen in government are usually the best-placed persons to ensure the proper legislative incorporation of MEAs — and their involvement is important to the development of effective environmental legislation.

In many instances, MEA Secretariats provide assistance to States in drafting implementing legislation pertaining to the MEA(s) in their purview [see case studies under the relevant Guideline 34(e) on model legislation and Guidelines 20 and 41(n) on legislative reviews, respectively].

To address the limited available staff, countries may obtain technical and legal assistance . . . but the continued involvement of legal draftsmen in Government is still essential.



[20]

[34(e)]

[41(n)]

International institutions such as UNEP, UNDP, the World Bank, regional development banks, regional integration organisations (such as CCAD in Central America), and NGOs also provide technical and financial assistance to States developing laws.

In addition, States often utilise private consultants to help draft implementing legislation. Experience with consultants — particularly foreign consultants (i.e., consultants from other States) — has been mixed. In some cases, the consultants have provided invaluable legal, technical, and personnel resources. Often, consultants have been able to focus on the task at hand — legislative drafting — and deliver a product faster than the government agency could, although usually at a higher expense. In some cases, the legislative measures suggested by external consultants have been unrealistic or not feasible. As a practical matter, donor agencies sometimes insist that the recipient of the aid hire consultants from particular States. In those instances, however, it might be possible to pair the foreign consultant with a local consultant or institution that is familiar with the legal, policy, institutional, and social contexts. Increasingly, local consultants from civil society organisations, universities, and the private sector are being used.

The following case studies highlight some generally positive experiences. They include examples where States have benefited from assistance from MEA Secretariats (e.g., CITES), international organizations and bilateral agencies (e.g., UNEP/UNDP/Dutch Development Corporation), and consultants.

On the role of consultants more generally, see the case study on “Cost-Benefit Analysis of Ratifying the Kyoto Protocol in Sri Lanka” at the beginning of Chapter I and the case study on “Developing a Framework Environmental Law in Sudan” (above).

Governments increasingly are looking to develop public-private partnerships to implement MEAs. Such partnerships are used for everything from crafting the necessary strategy to developing and implementing projects to joint management. Guideline 42(b) and the accompanying text expand on this point (including a case study on “A Public-Private Partnership to Develop Seychelles’s National Plant Conservation Strategy”).



PARTNERSHIP PROJECT FOR THE DEVELOPMENT OF ENVIRONMENTAL LAWS AND INSTITUTIONS IN AFRICA (PADELIA)

The Partnership for the Development of Environmental Laws and Institutions in Africa (PADELIA) is a flagship UNEP pilot project. It is sponsored by Belgium, Germany, Norway, Switzerland, Luxembourg, and The Netherlands, and it is currently in its second Phase since 2001. [Phase I ran from 1994 to 2000.] PADELIA seeks to support the development of environmental law as well as the corresponding national and regional institutions to ensure effective enforcement. Thirteen States are currently benefiting from the Project, namely: Mozambique, Sao Tome & Principe, Kenya, Tanzania, Uganda, Botswana, Lesotho, Malawi, Swaziland, Mali, Niger, Burkina Faso, and Senegal.

Phase I of PADELIA benefited Mozambique, Sao Tome & Principe, Malawi, and Burkina Faso (which all focused on country-specific issues of environmental law) and East African States (Kenya, Uganda, and Tanzania) (which focused on issues of transboundary environmental law). Now, activities in East Africa (Kenya, Tanzania, and Uganda), the Sahel (Mali, Niger, and Senegal), and the Southern African Development Community (SADC) (Botswana, Lesotho, and Swaziland) are directed at issues of sub-regional character with the objective of developing and harmonising laws. While the East Africa sub-regional project has participated in the PADELIA since Phase I, the Sahel and SADC sub-regional projects joined in this Project during the current Phase.

The first important feature of the project is that it is country-driven and highly participatory in nature. Topics for legislation are selected by stakeholders constituted as a National Task Force or Coordinating Committee. Second, the project operationalises the concept of capacity building and has coached nationals on how to identify problems requiring legal intervention and then assisting them in writing the draft laws. Third, the draft laws are subjected to national consensus building workshops and thus enhancing broad public acceptance and ownership. Each of the States during Phase I was able to move at its own pace to reach concrete and quantifiable results. Over 58 draft laws have been developed by the Project countries since 1996.

In addition, the project has conducted and continues to conduct trainings on specific topics, such as Environmental standards; Environmental impact assessment; Judiciary and their role; Legal practitioners on access to environmental justice; Legal protection of biodiversity; Implementation of conventions related to biodiversity; Environmental law theory and practice; General for Environmental law and policy for Lusophone

Partnership Project for the Development of Environmental Laws and Institutions in Africa (PADELIA) (cont'd)

countries; Industrialists; Training by attachment; and Development and harmonisation of laws, to mention but few.

Publications were and are prepared for key areas and have been and continue to be distributed widely. These include a Compendium of environmental laws (10 volumes); Compendium of judicial decisions (4 volumes); Handbook on implementation of environmental conventions; Guidelines for compliance by industries; and procedures for harmonisation of laws in East Africa.

The project is a unique partnership where activities are overseen by an independent inter-agency Steering Committee comprising the The World Bank, UNDP, IUCN, FAO, the donors (see above), UNEP, and an African lawyer representing a neutral African voice. The management of the Project is currently under a Task Manager within UNEP's Division of Environmental Policy Implementation (DEPI). The partnership has been a unique experience for the agencies themselves.

For more information on PADELIA, see <http://www.unep.org/padelia/> or contact padelia.africa@unep.org



CITES NATIONAL LEGISLATION PROJECT

Since 1992, CITES has been implementing a national legislation project, under Resolution Conf. 8.4 and related decisions of the Conference of the Parties. This project analyzes national laws and assist States with developing effective legislation that adequately implements CITES. In analysing a national law, the Secretariat considers whether and how the law: designates the responsible authorities, prohibits trade in violation of the Convention, penalises such illegal trade, and provides for confiscation of specimens that were illegally traded or possessed. Based on this analysis, the Secretariat categorizes the legislation as being:

- Category 1 (meets all the requirements for implementing CITES)
- Category 2 (meets some, but not all, of the requirements for implementing CITES)
- Category 3 (does not meet any of the requirements for implementing CITES)

If a State's legislation does not meet all of the requirements to implement CITES, the Secretariat can work with the State to develop a legislation plan to bring about compliance.

There are incentives for countries to revise their legislation or develop new legislation to implement CITES fully. In addition to shame (and the desire to be a Party in good standing), a State with inadequate legislation and which does not make good

CITES National Legislation Project (cont'd)

progress to strengthen that legislation could be subject to a Standing Committee recommendation to suspend trade.

The CITES Secretariat also assists countries developing or revising implementing legislation. Upon request, the Secretariat frequently reviews and comments on draft legislation. The Secretariat provides examples of legislation from other countries, has developed a legislative guidance package (containing a model law, legislative checklist, and format for legislative analysis), and convenes regional and national workshops on drafting CITES-implementing legislation. The Secretariat also sends staff or consultants to countries to assist the countries in developing legislation. And, the Secretariat also has various bilateral and multilateral legislative projects.

For more information, see <http://www.cites.org/> or contact cites@unep.ch



USE OF CONSULTANTS TO ASSIST IN DRAFTING LEGISLATION TO IMPLEMENT MEAs IN ST. LUCIA

St. Lucia used a local consultant to expedite the process of drafting legislation to implement the Montreal Protocol. In this instance, the technical environmental staff prepared a detailed in-house brief based on the laws of other States as well as UNEP Guidelines on the topic. Using this brief, the legal consultant drafted the law by transposing the technical provisions into legal language.

For more information, contact Mr. Crispin d'Auvergne at cdauvergne@planning.gov.lc



CONSULTANTS TO FACILITATE LEGISLATIVE DEVELOPMENT: UGANDAN FOREST SECTOR LEGISLATION

When Uganda sought to revise and update its 1964 law governing the forestry sector, the Government engaged a consultant to assist in the drafting process. In the late 1990s, the forestry sector in Uganda identified a number of issues to consider in revising the forest act. These issues included the fact that since the 1992 Earth Summit, new principles and practices on sound forest management had developed that needed to be adapted to Uganda, in addition to difficulties in Uganda's existing framework for forest management. Accordingly, Uganda decided that the law needed to be updated to incorporate the Rio Forest Principles as well as the CBD, CITES, CCD, and Agenda 21.

With financial assistance from UNEP and others, the Government hired a consultant to develop an initial draft bill. This bill was reviewed and discussed several times through regional and national workshops, in an effort to build consensus among the various interested parties and stakeholders (including workshops for parliamentarians). In 2003, after four years, Parliament adopted the National Forestry and Tree Planting Act of 2003.

For more information, contact Ms. Christine Akello at cakello@nemaug.org or info@nemaug.org

National Environmental Action Plans (NEAPs) and Other Planning Processes

Over the past decade, many States have developed National Environmental Action Plans (NEAPs) and other environmental policies that aim to provide a broad national framework for development of environmental laws, institutions, and initiatives. There have been a variety of approaches to developing NEAPs, and the NEAPs of different States accordingly reflect different priorities, needs, and capacities. Generally, NEAPs identify environmental challenges and enumerate measures that need to be taken. Most NEAPs include guiding principles for environmental protection and management in the State, principles that are intended to guide the further development of laws, policies, and institutions.

Some States have considered MEA obligations in the NEAP process. For instance, Uganda integrated MEAs into its NEAP, with a priority on the post-Rio Conventions as well as Ramsar and CITES. Kenya, Turkmenistan, and many other States have addressed various issues of compliance with MEAs in the context of NEAPs.

Many States, though, have not been integrated MEAs into their national environmental policies (or NEAPs). Even if a NEAP was developed with no specific MEA in mind, there are opportunities to incorporate MEAs through thematic aspects in the existing MEAs: for example, UNCCD into sections on land management, CITES and CMS into biodiversity, and the Basel Convention into hazardous waste management.

There is growing recognition that many States need to revise their NEAPs for reasons not related to MEAs. Based on experience in assisting States in developing NEAPs, the OECD has identified many weaknesses of the first NEAPs:

- Many NEAPs were political documents and overly general. While the NEAPs and the NEAP processes raised awareness of high-level politicians in sectoral ministries, they often lacked details.
- The lists of objectives and measures to be taken in many NEAPs were too long, had no indication of priorities, and were too general. As such, they provided little guidance regarding what specific actions should be taken by whom and at what stage.
- The NEAPs often did not address how the tasks would be funded. In practice, the funding available was not sufficient to support all the projects that needed to be undertaken. Many States seemed to assume that the long list of projects would be funded largely by external sources (including bilateral aid agencies and multilateral institutions). Thus, little attention was paid (particularly in developing countries and countries with economies in transition) to internal, domestic sources of funding.
- NEAPs often did not identify the necessary or appropriate incentives to engage the private sector in implementing specific projects. For example, proposed actions in NEAPs rarely were based on economic valuations of the costs and benefits of the actions.
- In many States, there was limited “ownership” of the NEAP process. The process of developing the NEAP greatly affected the extent to which the NEAP was accepted. The NEAP process often was supported (and sometimes driven) by external donors and international financial institutions, with a limited number of experts and government officials involved in preparing the NEAP.

While a number of States managed to address or avoid these weaknesses in one way or another, there were many others that did not.

To build upon the existing NEAPs and to make them more effective in addressing environmental challenges, the OECD has proposed a “second-generation” of NEAPs that are more akin to implementation programmes that would assist in resolving high-priority environmental problems. These NEAPs would focus on target-setting and the resources for implementing identified policy, legal, institutional, and investment measures. These NEAPs would be guided by a new set of considerations, including:

- a) “Real” priorities (as opposed to long lists of specific projects and measures), determined with the support of economic (cost-benefit) considerations;
- b) Specific, measurable, and realistic targets anchored in time;
- c) Specific mixes of policy instruments to reach the targets in public and private sector;
- d) Institutional and legal framework for environmental policy and for its integration with strategies of economic development, fiscal policies, programmes for poverty reduction, and into sectoral policies;
- e) Detailed estimates of costs and expenditure required to reach the targets;

- f) Realistic strategies to mobilise financial resources to cover these costs and expenditure needs;
- g) Analysis of affordability of environmental policies to national economy, public budgets, enterprises, and households; and
- h) Assurance of the active participation of all interested parties.

For more information on second-generation NEAPs, contact Mr. Krzysztof Michalak at krzysztof.michalak@oecd.org.

Whether States pursue the development of full second-generation NEAPs or simply review and revise their existing NEAPs, NEAPs provide an overarching national policy framework within which a State can identify MEA priorities and set forth priority-ranked measures for promoting compliance and enforcement of those MEAs.

In addition to NEAPs, other policy documents and planning instruments can provide opportunities for integrating MEAs into the broader legal and institutional context of a State. For example, when Seychelles prepared its Environmental Management Plans, the State considered relevant MEAs (see below).



INCORPORATING MEAS INTO NATIONAL ENVIRONMENTAL ACTION PLANS (NEAPs) IN GEORGIA

The Ministry of Environment finalised the National Environmental Action Plan in 2000, which addresses all aspects of the environment. The NEAP incorporates three MEAs: the UNFCCC, the Ozone Agreements (Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocol on Substances that Deplete the Ozone Layer), and the CBD. Among other things, the NEAP contains information on the ratification of the MEAs and a brief review of activities under the Conventions

Many of the strategic planning processes could be improved. Development planning documents could consider environmental factors, including MEAs, more effectively. When policies decentralise responsibilities (including those relating to natural resources and the environment) to more local levels of government, States should consider whether these levels of government have the expertise or resources to meet their new responsibilities. If they lack the financial, technical, or personnel resources, are there provisions for providing resources from the national to the sub-national levels? Finally, there could be better coherence among various key policies which are often developed independently but in practice overlap (and may conflict), e.g., between poverty reduction and sustainable development.

Other Issues

In States where there is more than one official language, a law or regulation may appear in more than one language. While the translations are usually accurate, a State may wish

to consider what happens when two (or more) versions of the same law yield slightly different meanings. One way to resolve this is to officially state that one particular version is the controlling law. That way, if there is a conflict between two versions, or if something is required by one translation but not the other, it will be clear which version of the law governs.

States may also wish to address what happens if there is a conflict between laws at the national level. For instance, a provision in a national law could contradict a provision in an MEA. Alternatively, a provision in one law implementing an MEA could conflict with a provision in another national law. Which law prevails? How is this determined?

Some States have concepts known as “canons of construction” that try to resolve such potential conflicts. These canons provide that if one law or another could be interpreted in a way so that they do not conflict, then that is the preferred interpretation.

Some States (such as South Africa) involve the Attorney-General’s office, State Law Advisor, or other legal experts in the legislative drafting process in order to avoid conflicts between laws. Similarly, Uzbekistan and other States review existing national laws prior to ratification or accession to remove potential inconsistencies.

Even with these canons of construction and procedural cautions, conflicts can still arise. In this eventuality, States have a priori articulated rules governing potential conflicts. For example, most States in Eastern Europe, Caucasus, and Central Asia (EECCA) have a constitutional provisions or other legal decrees that make international instruments (including MEAs) binding law immediately upon ratification or accession. Implementing legislation is still necessary for detailed application of an MEA or other international agreement. However, these constitutional and legal provisions usually provide explicitly that the international law automatically takes precedence over any conflicting national law.

Similarly, some States seek to resolve conflicts between national laws by explicitly stating which law governs in event of a conflict. For example, Kenya’s Environmental Management and Coordination Act (EMCA) is deemed supreme if there is a conflict with another law.

Clarity and Notice in Environmental Laws and Regulations

- [40]** (a) *Clearly stated with well-defined objectives, giving fair notice to the appropriate community of requirements and relevant sanctions and enabling effective implementation of multilateral environmental agreements;*



INCORPORATING MEAs INTO THE ENVIRONMENT MANAGEMENT PLANS OF SEYCHELLES

In 1989, Seychelles prepared its first Environment Management Plan (EMPS) for the period 1990 – 2000. The Government was assisted by UNDP, UNEP, and the World Bank in preparing this plan, and the Government raised US\$40 Million from various donors for its implementation. The EMPS portfolio was presented in 11 different programmes, which included 45 national and 6 regional projects. In the first EMPS, the “Revision of Environmental Legislation” project included a component for reviewing and assessing obligations under MEAs. Second, the areas where legislative action is required to give effect to international conventions and treaties signed by Seychelles were also to be identified.

A second EMPS, covering 2000 to 2010, has been launched and implementation has started. When drafting the second EMPS, the lessons learned and limitations of the first EMPS were identified and incorporated into the second plan. These lessons learned include:

- Most of the projects in the first EMPS did not contain objectively verifiable environment criteria. It has therefore been difficult to quantitatively analyse the impact of EMPS projects on environment quality.
- Despite the creation of a steering committee, the structure of the first EMPS was addressed as “a product and not a process” and the process to build ownership was not articulated.
- The first EMPS was used largely as a project list and not as a master plan to provide guidance as was originally intended. As a result, many key environmental activities were determined by ad hoc and reactive actions.
- EMPS project funding was targeted to donors, and as a result the plan was felt to be too donor-driven. The EMPS also did not provide a strong framework for sustainable financing instruments.
- Few EMPS projects were designed to create enabling environments for NGO and private sector involvement and partnerships.
- Despite the implementation of legislation and EIA enforcement, land use management is poorly connected to environmental protection, and deforestation, erosion, and inappropriate development continued to occur.
- Gaps in knowledge of Seychelles ecology and natural processes still remain a concern, notwithstanding a substantial body of scientific literature that exists. Data management in particular could be improved.

In the second EMPS, ten thematic areas were chosen to cover all major social and economic sectors as well as certain key subjects of environment management. Seven cross-sectoral themes were also identified. In the second EMPS, the review and enforcement of MEAs has been explicitly addressed in one support programme and involves three MEAs and auxiliary agreements (Montreal Protocol, Implementation of Oil Preparedness Response and Cooperation (OPRC 90), Implementation of Marpol &

Incorporating MEAs into the Environment Management Plans of Seychelles (cont'd)

Annex 1, Implementation of Convention on Civil Liability for Oil Pollution Damage, and Establishment of an International Fund for Compensation for Oil Pollution Damage). One of the 10 thematic areas covers Biodiversity, Forestry and Agriculture; and the plan for this theme drew upon and updated the National Biodiversity Strategy and Action Plan (NBSAP), which was published in 1997.

For more information, see http://www.pps.gov.sc/enviro/EMPS_2000-2010.pdf or contact Rolph Payet, Principal Secretary Department of Environment at ps@env.gov.sc

CHECKLIST FOR DEVELOPING LEGISLATION IMPLEMENTING AN MEA

States may take a number of broad measures to improve the implementation of MEAs, including:

- Developing a broad legislative framework providing for MEA implementation, for example through a country's framework environmental law. (This legislation should include authority for relevant governmental institutions to pursue both "command-and-control" and market-oriented measures.)
- Establishing the technical focal point or focal points responsible for MEA implementation. This often is the national environmental agency or Ministry.
- Guarantee funding for and independence of the technical focal point.
- Ensure through legislation or other means that the mandate of the agency or Ministry includes the coordination and supervision of other governmental and non-governmental bodies having environmental functions.

In developing legislation to implement a specific MEA, a State may wish to:

- Launch a consultative process that includes the key experts and stakeholders. This may be in various forms:
 - National legislative committee (e.g., led by Parliament)
 - Task force (e.g., led by the Executive Branch)
 - In some States, bills may be developed and presented to citizens.
- Adopt legislation before becoming a Party to an MEA.
- Provide resources for acquiring and retaining staff or consultants with the necessary expertise to draft the legislation.
- Obtain assistance – where necessary and appropriate – from the MEA Secretariat and/or national, regional, and international organisations in drafting the legislation.
- Consider whether the implementing legislation should implement an MEA by reference and/or by re-enactment, with appropriate modifications.
- Set out Convention requirements for national action (legal, institutional, or other).
- Closely examine each of the requirements.

Checklist For Developing Legislation Implementing An MEA (Cont'd)

- Ensure that the implementing legislation is consistent with the MEA, and that the implementing legislation meets all of the Party's obligations under the MEA.
 - This may be done, for example, by basing the legislation on the State's MEA compliance plan or implementation plan. [See Checklist following Guideline 21.]
 - The State may also consult guidance prepared by the MEA Secretariats [See Guideline 34(e) and accompanying text].

- Include provisions in the implementing legislation establishing the necessary institutional, administrative, policymaking, inspection, and enforcement frameworks.

These legislative elements include:

 - Definitions
 - Objectives
 - Principles
 - Operational provisions
 - Compliance provisions
 - Incentives
 - Awareness-raising
 - Capacity-building
 - Phase-in period (if appropriate)
 - Enforcement
 - Liability (where appropriate)

- Address how to resolve potential conflicts between domestic legislation and the MEA. Many States provide that the MEA prevails in all cases, except for conflicts with the Constitution. Some States provide that the MEA prevails unless the relevant Minister formally states that the domestic legislation prevails.
- Include provisions in the implementing legislation empowering courts to take judicial notice of MEAs that have been incorporated into domestic law.
- Provide for a framework or timetable for updating implementing legislation to take into account subsequent changes in an MEA (for example, by Amendment or Protocol).
- Share the draft implementing legislation and regulations with the MEA Secretariat for their review and comment prior to adoption.

This Checklist builds upon a similar checklist in the 1999 CARICOM Guidelines for MEA Implementation; see also a similar Checklist following Guideline 34(e).

CHECKLIST FOR DEVELOPING EFFECTIVE ENVIRONMENTAL REGULATIONS, PERMITS, AND LICENSES

General requirements (i.e., regulations, general permits, and licenses) will be most effective if they closely reflect the practical realities of compliance and enforcement.

For example, if they:

- Are sufficiently clear and understandable to be the basis of criminal prosecution (which is usually regarded as the most serious enforcement action), or other enforcement action. Clarity is important for all enforcement actions, and particularly for criminal prosecutions.
- Articulates the underlying legal (e.g., statutory) authority.
- Precisely define which sources, activities, and substances are subject to requirements.
- Precisely define the requirements and any exceptions or variances in these requirements, including the means for determining whether a particular facility or activity is exempt.
- Define the exceptions or variances sufficiently narrowly so that they do not undermine the regulatory regime.
- Specify when a malfunction or change in local conditions may justify an exemption, the requirements that apply in those circumstances, and who makes the determination.
- Consistently use the same terms.
- Clearly address how compliance is to be determined by specifying test methods and procedures.
- Clearly state deadlines for compliance.
- Are flexible enough to be constructively adapted through individual permits, licenses, or variances to different regulatory circumstances.
- Are based on technology (e.g. control or monitoring equipment) and methodologies that are or soon will be available, reliable, and affordable.

The Guidelines recognise that the most effective laws and regulations are worded in plain language, allowing the “lay person” to understand requirements and goals. Additionally, laws are implemented more effectively when they allow the regulated community time to adapt. Sometimes compliance can be costly or require changes to equipment and procedures. Thus effective regulations allow ample time for the regulated community to understand the law and change their practices if necessary. Laws and regulations can be designed to enter into force gradually through setting compliance standards that become increasingly strict as time passes. This approach can allow the regulated community sufficient time to comply with the laws’ requirements.

Enforcement mechanisms and practices should take account of the particular characteristics of the MEA in question in addition to the particular legal, economic, cultural, and social characteristics of the state that is enforcing them.

Feasibility of Environmental Laws and Regulations

- [40]** (b) *Technically, economically and socially feasible to implement, monitor and enforce effectively and provide standards that are objectively quantifiable to ensure consistency, transparency and fairness in enforcement;*

An important step in determining the feasibility of national laws and regulations in terms of compliance and enforcement is analysing the regulated community’s ability to comply with the laws’ requirements.

General requirements that are very specific, with little flexibility for modification when they are implemented at specific facilities, are easier to enforce but may not allow the economic flexibility that will encourage compliance. Policymakers will need to balance the advantage of specificity with the need for flexibility. Both economic and technological factors determine how great a burden the new requirements will pose to the regulated community. Some environmental programmes (such as those in the United States) often commission an independent study to examine the economic and technological impact that proposed general requirements will have on the regulated community. Factors studied often include:

Economic Considerations:

- Which types of facilities are subject to the requirements?
- What equipment will be required to comply and how much will it cost to obtain, operate, and maintain?
- What changes in work practices will be necessary for compliance? How much will these changes cost?
- If the regulated community is required to monitor its own compliance activities, how much will this monitoring cost?
- Are there any short- or long-term economic benefits to the regulated

community from compliance (e.g. income from recycled materials, development of more cost-efficient processes)?

- Is the regulatory scheme cost-effective compared to other approaches that could improve this?



REDRAFTING THE PHILIPPINES LEGISLATION ON ACCESS TO GENETIC RESOURCES AND BENEFIT SHARING (ABS)

Executive Order 247, which was adopted in 1995, prescribes guidelines and procedures for the prospecting of biological and genetic resources in the Philippines. The Order defines bioprospecting as the research, collection, and utilisation of biological and genetic resources for purposes of applying the knowledge derived therefrom for scientific and/or commercial purposes. A Research Agreement between the Philippine Government and a prospective bioprospecting applicant is necessary for the conduct of bioprospecting activities. This may either be an Academic Research Agreement (ARA) or a Commercial Research Agreement (CRA), both requiring the prospective applicant to satisfy certain requirements and undergo an application process managed and enforced by an Inter-agency Committee on Biological and Genetic Resources (IACBGR). The implementation of the Order had been questioned a number of times because of the tedious process involved before agreements are finally approved. Some local scientists and researchers found this regulation too demanding and a barrier to research and development. During the implementation of the Order, only one ARA and one CRA have been issued.

In 2001, the Philippines revised the procedures. Republic Act 9147 (the Wildlife Resources Conservation and Protection Act) of 2001 amended the definition of bioprospecting to research, collection, and utilisation of biological and genetic resources for the purpose of applying the knowledge derived therefrom solely for commercial purposes. The procedure for issuing a Commercial Research Agreement was streamlined and now includes a more reasonable period for approval. For scientific research activities, a separate procedure which was more simple and practical was adopted.

Implementing guidelines covering the access and benefit-sharing system, quota for the collection of specimens, determination of the amount of performance, ecological and rehabilitation bond, and the monitoring scheme had been drafted and presented to stakeholders for consultation.

For more information, contact Ms. Meriden Maranan at planning@pawb.gov.ph

Technological Considerations:

- What technologies may be used to comply?
- How reliable are these technologies?
- How available are these technologies?
- How easy is it to accurately operate these technologies?

Size of the Regulated Community

The size of the regulated community can influence a program's ability to successfully enforce general requirements. The larger the regulated community, the greater the effort generally required for successful enforcement. Too large a regulated community can make it impossible to implement and enforce requirements. For example, a province in the Netherlands passed a law requiring companies that wanted to use a processing installation to dispose of their wastes to apply for an exemption. After the law passed, the government discovered that 100,000 companies producing wastes would need an exemption. Inspections alone would have required hiring an additional 200 to 300 inspectors. The provincial government decided to revise the regulation. Exemptions are no longer required. Companies must keep a record of their waste deliveries and periodically report information on the most hazardous wastes. Enforcement efforts now focus on the waste processors (about 1,000) rather than the waste producers. Some pollution events involve a chain of facilities and/or individuals (e.g., manufacturers, distributors, and users). In such cases, regulating the smallest "link" in the chain (e.g., manufacturers rather than users) can achieve the desired environmental results with much less effort.





DESIGNING ADMINISTRATIVE FEASIBILITY AND ENFORCEABILITY INTO THE POLLUTION-CONTROL LAWS OF THE UNITED STATES

In the United States, pollution is controlled mainly through laws and regulations that define violations as the discharge, emission, or release of more pollutants to the environment than allowed by the permit required of and issued to the individual source. For example, a source-based control may typically define the allowed parts per million or smaller for each chemical (i.e., concentration of pollutants), or the threshold may be absolute (e.g., total mass of a pollutant over a specific period). It is a violation for anything more than that threshold to leave the chimney, stack, or pipe. Most violations result from routine operational mismanagement and every-day illegal pollution from chimneys, stacks, and pipes from factories and other facilities. Violations of laws administered by the U.S. Environmental Protection Agency (USEPA) rarely involve catastrophic spills. Because the laws are applied early and preventively, usually before there is measurable natural resource damage or harm to public health, pollution control in the U.S. is generally considered to be a success.

While these laws often are designed to facilitate the achievement of ambient or ecosystem-wide goals, the laws impose standards of individual responsibility upon each of the multiple sources within the regulated area. Because of factors such as pollutant dispersion and long latency periods before damage appears, often it is not feasible to price either the value of natural resources damaged or the cost of their clean up or restoration. Most U.S. pollution-control laws allow a violation to be proved and a penalty to be assessed without consideration or measurement of environmental damage or other wrongful economic externalities. However, such damages may be recoverable in private tort suits brought by individuals who suffer provable injury.

With routine reliance on source-based controls, USEPA is known to be an effective enforcer. Most regulated enterprises respond rationally, choosing to pay for effective pollution control and achieve compliance. They do this without suffering a direct USEPA enforcement action, but because they perceive its threat. In this way, a relatively small governmental investment on dissuasion or deterrence produces a large collective social return, as many permitted and lawful polluters chose to invest in compliance. The economic goal of a pollution-control law — to minimise unwanted “externalities” by having enterprises internalise all costs including pollution control in product pricing — is met when laws are feasible and the threat of enforcement is sufficient to motivate compliance. In this way, USEPA applies the concept of polluter-pays to all regulated enterprises.

Where non-compliance is detected, the polluter-pays principle is applied more onerously. USEPA penalties are added to the routine pollution-control costs to be internalised and paid by violators. For more information on U.S. penalty policies, see the case study on “Setting Appropriate Administrative and Civil Monetary Penalties in the U.S.” following Guideline 40(c).

For more information, see <http://www.epa.gov/ebtpages/complianceenforcement.html>

Comprehensive Environmental Laws and Regulations with Appropriate Penalties

[40] (c) *Comprehensive with appropriate and proportionate penalties for environmental law violations. These would encourage compliance by raising the cost of non-compliance above that of compliance. For environmental crime, additional deterrent effect can be obtained through sanctions such as imprisonment, fines, confiscation of equipment and other materials, disbarment from practice or trade and confiscation of the proceeds of environmental crime. Remedial costs should be imposed such as those for redressing environmental damage, loss of use of natural resources and harm from pollution and recovery of costs of remediation, restoration or mitigation.*

An environmental regime that uses laws, regulations, and standards to set forth environmental requirements needs appropriate penalties or other sanctions for the regime to be effective. This is true whether the regime implements an MEA or advances other environmental goals.

The Guidelines recommend that (1) laws and regulations should be comprehensive and that (2) the penalties or other sanctions should be appropriate and proportionate.

The “comprehensiveness” aspect of this Guideline means that the legal regime should cover all of the potential activities and entities to be regulated. The legal regime also should have the necessary detail.

The Guideline pays particular attention to penalties and sanctions. First, the penalties should be appropriate. If there is no meaningful consequence to violations, the result can be delayed compliance or continued violations to the detriment of the environment and/or public health. Thus an “appropriate” penalty is designed to deter, punish, and/or remedy violations.

For example, a penalty associated with spoilage of the natural environment could incorporate various elements. It should be severe enough to deter other violations by that offender or other potential offenders. One key aspect is removing whatever economic gain the violator incurred through the violation (e.g., costs avoided or competitive advantage gained). At the same time, the penalty can be designed with the aim of restoring the environment to the state it was before the spoilage.

There are many different types of penalties, as well as means for determining and applying those penalties. Civil penalties typically entail monetary fines (including exemplary and aggravated damages), orders for injunctive relief, or both. Other sanctions such as criminal convictions (jail terms and fines) and administrative penalties and orders also play a crucial role in many States. In some States, the death penalty has been used to address environmental crimes (including trafficking in endangered species), although the

international community is divided over whether the death penalty is appropriate under any circumstances.

Finally, where environmental crimes are punishable by jail sentences, the use of probationary requirements can be effective. For example, a defendant may be sentenced to community service or other types of conditions, such as the creation of a compliance programme or audit. This can be particularly important for corporations which, of course, cannot serve jail time.

Various penalties are discussed in more detail below. For a discussion of the consistent and fair application of the penalties, including a selection of when to apply which, see Guideline 41(d) and accompanying text. Where allowed by law, the use of plea agreements or judicial settlements can be extremely useful in requiring a defendant to take certain actions to perform community service, establish compliance programmes, make public apologies, or take other actions. These actions may reduce or be in lieu of a fine or imprisonment.



Who is Liable?

In most States, both “natural” persons (that is, individuals) and “legal” or “juridical” persons (that is, corporations, governmental entities, and other institutions) can be held liable for violating environmental laws and regulations. Depending on the constitutional and statutory framework of the particular State, the liability may be administrative, civil, and/or criminal.

When a company or other legal person violates an environmental law (or other law), that institution may be liable. In addition, the “responsible corporate officer” doctrine provides that company officials can be held liable for corporate actions. Even if they did not have direct knowledge of the violation, the law may presume knowledge if the officer had part or responsibility in the transaction that violated the particular law. In the United States and other States, courts have applied the responsible corporate officer doctrine to hold officials civilly and criminally liable for environmental violations (especially when they are particularly egregious).

High-level officials also may be held liable for a subordinate’s illegal actions if the official knew of the actions or had oversight responsibility over the actions.

Venezuela allows for criminal punishment of managers, administrators, and directors acting in the name of or representing their enterprise, as well as liability for the enterprise itself.

The risk of criminal and civil liability arising from a person’s position within a company has been a significant factor in some States that has increased the incentive of businesses to comply with environmental laws and regulations.

Public officials and employees who are responsible for ensuring compliance with environmental laws and the integrity of the environmental regulatory system may be held liable for failing to fulfill their duties. Depending on the State and the seriousness of the violation, this may be administrative, civil, and/or criminal liability. For example, environmental laws in Brazil, Colombia, and Venezuela provide criminal sanctions for public officials

and employees who violate environmental laws. As noted below in the case study on “Brazil’s Environmental Crimes Law,” Brazilian public employees can be fined or imprisoned for up to three years for:

- omitting the truth, making a false declaration, or withholding information and data about an environmental authorisation or license;
- for failing to comply with legal duties relating to environmental matters; or
- for hampering or misleading prosecutorial activities relating to environmental matters.

In Colombia, environmental officials and employees can be subject to administrative, civil, and criminal sanctions for not complying with environmental laws and regulations.

“Gatekeepers” can also be held liable for violations, especially for fraud. Gatekeepers are private, independent third parties (they may be either individuals or institutions) who assure that the regulated community complies with environmental laws and regulations. They usually do this through monitoring, inspections, and audits, pursuant to legal requirements. Examples of gatekeepers include environmental auditors, as well as consultants who prepare environmental impact assessments (EIAs).

Administrative, Civil, and Criminal Penalties

Violations of environmental laws or regulations can incur administrative, civil, or criminal liability. Broadly speaking, penalties may include for example:

- Administrative penalties, including inter alia fines, stop work orders, closures, licence revocations, and denial of funding;
- Civil penalties, including inter alia fines (typically larger than allowed through administrative penalties), injunctive relief (such as closures and requirements to install or upgrade pollution-control technology), publication of public apologies and other negative publicity, remedial costs, restitution, environmental and economic damages; and
- Criminal penalties, including fines and imprisonment, but also (in the case of institutional violators) closure and similar measures.

Administrative penalties may generally be enforced by agencies, with the possibility of judicial review by aggrieved parties. Civil and criminal penalties generally require judicial involvement — including the requisite procedures and safeguards for defendants — and will depend upon the law and practice of the particular State. Certain penalties, such as fines and negative publicity, can apply to administrative, civil, and/or criminal contexts. The Checklist on Types of Enforcement Authority, following Guideline 41(c), highlights a variety of these penalties.



The ability of an enforcement authority to exercise discretion in selecting which response to take depends on the particular State. For example, administrative or criminal penalties are not available in some States. Where a State has or is considering a range of administra-

tive, civil, and/or criminal sanctions, criminal enforcement actions are generally reserved for actions that deserve punishment, rather than correction — namely, where the violation is intentional and the impact is severe. Criminal actions are also used to ensure the integrity of the regulatory scheme, e.g., for facilities that operate without a permit or license. Cases reserved for criminal enforcement typically include:

- Falsifying documents;
- Operating without a permit;
- Tampering with monitoring or control equipment;
- Repeated violations; and
- Intentional and deliberate violations (e.g., decisions to violate based on greed).

In deciding how to proceed in a case (whether along administrative, civil, or criminal avenues), enforcers should consider the appropriateness of a range of legal authorities. For example, when prosecuting environmental crimes, general criminal authorities (e.g., in a Criminal Code) may be available and may provide even more stringent penalties than set forth in the relevant environmental legislation. Such criminal provisions may address general issues of fraud, misrepresentation, customs violation, money laundering, tax evasion, or other similar crimes. Frequently, these authorities may be added to environmental claims (e.g., smuggling of protected species or ozone-depleting substances). Such prosecutions may require coordination with more traditional law enforcement agencies. These prosecutions also have the additional benefit of educating government officials and the public that environmental crime is as significant as other types of white-collar corporate and organised crime.

Following is a discussion of the various types of penalties and remedies that may be considered. For more details on some of the approaches and laws cited in this discussion, see *Sanctions and Incentives: Options for Regulating Manufacturing Industries in Peru* (Environmental Law Institute 1998). Environmental offenses can range from those that are fairly routine and not measurably damaging to the environment to those offenses that are extremely complex and damaging. Because penalties should be proportionate to offenses, States may wish to make available a full range of penalties.

Monetary Fines

Fines may be administrative, civil, or criminal. In setting the legal framework for fines, States may consider a number of factors. These include determining the amount of the fine (including the unit of the fine, the range, criteria for determining the amount in a particular context, and structuring the fine), allocating liability among defendants, payment of the fine, and the relationship between the fine and other penalties.

Units of fines

In some States, statutes express penalties in the national unit of currency (e.g., \$250 or (1,000)). Many of the case studies, below, follow such an approach.

In other States, statutes express penalty amounts in a standardised administrative unit. Such administrative units may be a minimum monthly salary, a minimum daily salary, a monthly taxable unit, a judicial fine unit, or other similar unit. These units are established

by the central government. This approach helps to ensure that the amount of the fines are up-to-date, maintaining their deterrent and compensatory relevance. As such, it can be easily and regularly adjusted to account for inflation. Brazil, Chile, Colombia, Mexico, Peru, and Venezuela have adopted approaches that rely on one form of standardised unit or another.

Another approach is to establish fines as a percentage of the company's capital. For example, Bolivian regulations impose a flat fine of 0.3 percent of the company's, project's, or facility's total capital. This approach seeks to ensure that the punitive element of the fine is proportional to the ability of the violator to pay.

Setting a range for fines

Environmental laws and regulations may define fines specifically or generally. As such, they may set forth:

- a flat amount for each violation;
- range for the fines, between a minimum and maximum amount (allowing an administrative agency or court discretion to determine the precise amount of the fine based on the circumstances of the violation); or
- a cap on the amount (i.e., "up to" a certain amount), with an agency or court determining the precise amount.

It is possible to combine these approaches. For example, a law may provide a cap on the initial fine plus a flat amount for each day that noncompliance persists after the court issues its decision. The case studies that follow illustrate a range of approaches.

Criteria used for determining amount of a penalty

There are a range of different criteria that environmental statutes set forth as considerations when determining the specific amount of a monetary fine. These criteria tend to fall within the following categories (note: not all statutes in all States consider all criteria):

- *The economic benefit from delayed compliance:* Most statutory and regulatory frameworks account for wrongful economic benefits. This seeks to ensure that there is no incentive to violate environmental laws. Since the economic benefit may be much greater than the general penalty, it is occasionally an additional factor, so that a court may impose an additional fine that is equivalent to the amount of property, benefit, or advantage incurred as a result of the violation, even if the total fine is greater than the maximum that would otherwise be allowed;
- *The nature, extent, and gravity of the violation:* This includes both the actual damage and the risk of damage to the environment, natural resources, and public health. If the same wrongful action violated multiple legal obligations, the fine may be increased;
- *The degree of the violator's culpability or willfulness:* Most laws provide more severe penalties for violations that are intentional, willful, or knowing; actions that are reckless or negligent tend to have penalties that are not as severe.

For example, Colombia provides for enhanced penalties where the violator committed the act in full knowledge of the damage, with the complicity of subordinates, by pressuring subordinates to act, or to hide the action of another;

- *The extent of the violator's good faith efforts to comply:* If a violator notifies the government that it has violated the law (e.g., by exceeding their permit), its penalty may be less than if the government discovered the violation on its own. Similarly, if a violator makes good faith efforts to comply and indeed goes beyond merely coming into compliance, the fines may be reduced. Mitigation provisions of statutes allow a violator to reduce a pending penalty by mitigating and remediating the damages, while remission provisions of statutes can forgive a final penalty in full or in part. In contrast, if a violator denies responsibility, attributes it to others, or tries to hide the violation, continues to violate after receiving notice of the violation, fines may be increased;
- *The history of prior violations;*
- *The economic impact of the penalty on the violator:* If a penalty exceeds a violator's ability to pay, the penalty might be reduced to allow the violator to stay in business (especially if the violator was not intending the violation and did not seek to conceal the violation);
- *The deterrent effect of the penalty:* Related to the economic impact of the penalty, this element addresses whether the penalty is sufficient to deter future wrongful conduct (or whether the penalty should be increased);
- *The costs incurred by the State as a result of the violation:* These costs can include the costs of enforcing against the violator (e.g., investigative costs, attorneys fees, and court costs), of mitigating or remediating the damage, and of taking preventive action. Moreover, the total fine may incorporate the costs of remedying or mitigating the environmental damage, even if the government does not incur the costs; and
- *Other relevant factors:* Recognising that enumerated criteria do not address all situations, some lists include a catchall category allowing the decisionmaker to take account of all the relevant circumstances in tailoring an appropriate remedy.

In addition to the fine, the violator may be liable for the economic value of damage to natural resources and the environment (see below).

Structuring a fine

Fines may be assessed on a "per violation," "per day," or "per day, per violation" basis. This relates to what constitutes a violation. Often for violations of reporting laws, every day that a violation goes unreported or a false report goes uncorrected is a separate violation. This way of structuring a fine provides a strong incentive for regulated entities to submit their documents on time, to ensure that their documents are complete and accurate, and to promptly correct any errors.

As discussed above, fines may be for an established amount, for an amount within a specified range, or up to a particular cap.

For particularly egregious violations, some environmental laws and regulations provide “multipliers” when assessing the final fine. For example, in Bulgaria (see below) and a number of other States, treble (3X) damages may be awarded for certain environmental violations.

Considering the long list of potential criteria in determining the amount of the fine set forth above, some environmental laws provide for principal and secondary criteria. Such an approach seeks to ensure consistency and fairness in determining fines.

Allocating liability among defendants

When more than one person (natural and/or legal) violates an environmental law or regulation, the different violators may be “jointly and severally liable” so that each person is liable for the complete environmental fine or reparation. In such circumstances, the different violators may seek “contribution” from the other violators in proportion to the degree of their participation or fault in the violation. Use of joint and several liability is common in civil liability, as it can reduce the financial burden on the government of prosecuting more than one case.

Payment of the fine

Fines may be paid to a variety of entities. These include, for example:

RECIPIENT OF MONIES FROM FINES	CONSIDERATIONS
General governmental fund (such as the national Treasury).	This option only indirectly, if at all, advances environmental priorities. However, in some States, the national Constitution may require that all fines be paid into such a fund.
A designated environmental fund within the government.	This option allows the funds to be used specifically for environmental purposes, including the promotion of compliance with and enforcement of environmental law. Examples of such funds may be found following Guideline 41(g).
A designated fund to address the specific damages caused by the violation.	This option specifically focuses on remediating and redressing the harm caused. However, it can lead to multiple funds, each requiring separate administrative attention. If there are only a few such funds, the administrative requirements may be acceptable; if there are many such funds, there could be a significant administrative burden. Such a burden may, however, be assumed by communities or other concerned individuals.

An affected community or individual victim of the environmental violation.	With this option, the monies might be used for environmental purposes, or for other community priorities, depending on the terms of the grant.
A citizen group or NGO active in environmental protection.	In some States, there are “bounty” provisions for NGOs and citizens that help to enforce environmental laws (by alerting government authorities to the violation, by assisting in investigations, or by bringing suit). Similarly, authorities may allow a portion of a fine to be payable to a “whistleblower” to encourage reporting by employees or knowledgeable persons of violations. This is provided for under some U.S. laws, and it is considered to be very effective.
Other institutions for specific purposes.	For example, a court might require a violator to pay amounts to educational institutions for scholarships to be awarded to students enrolled in environmental studies.

Alternatively, a court or agency might order the violator to use the money to pay into compliance, for instance by paying for an environmental study or investing in necessary technology. States may wish to approach this last option carefully: while it can advance environmental goals, such a penalty should not be simply delaying the expenditure of necessary costs.

The ultimate disposition of the fine may be to some combination of recipients set forth above. For example, fines may be split between a general national fund and an environmental fund, with a portion of the fine going to a whistleblower or NGO assisting in the process. Or the amount might be split between the affected community, redressing the specific damage caused, and investment in remedial technology. Since the ideal combination may depend on the specific circumstances of the particular case, States may wish to consider providing for a range of alternatives.

In order to ensure payment of fines in a timely fashion, courts may be empowered to add interest or daily fines for delays in payment. To address the most serious instances of non-payment, Colombia’s environmental law established the right of execution to collect the amounts owed due to environmental fines.

Although payment usually consists of cash, it can also include “in-kind” services and community service.

Relationship to other penalties

As noted above, the deterrence and punishment component of fines may be separated from the compensatory and remedial component. The compensatory component may include, for example, the monetary equivalent of the damage caused to natural resources, property, use and enjoyment of the environment, and other similar losses. For more information on approaches for valuing natural resource damages, see “Additional Resources on Defining and Valuing Environmental Damage” below and “Checklist for Economic

Valuation Studies” following Guideline 40. Thus, violators may be compelled to pay for compensation or remediation above and beyond the amount of the fine.

In addition to fines, there are many other penalties that may be imposed through administrative, civil, or criminal processes. These are addressed in turn.

Official Admonitions

Official admonitions issues by agencies or courts may be in lieu of more serious penalties, particularly for first-time violations that do not cause any harm. These admonitions may be issued as stand-alone sanctions, or they may be combined with injunctions or other sanctions. Admonitions may be verbal and/or written. They are rarely used for repeat violations, which usually merit more severe penalties.

Publicity

As part of a settlement or conviction, violators may be required to publicise information about the violation. For example, a company may be required to pay for a full-page advertisement in local or national newspapers to proclaim their guilt. For example, Venezuelan law permits judges to require convicted environmental violators to pay for the publication of their sentence in a national newspaper. Company executives may be ordered to speak in public about their wrongdoing. In States with even a modest public concern for environmental quality and a free market economy, negative publicity can have substantial economic implications for a facility. Negative publicity can also cause a corporation to lose prestige. Research indicates that potential loss of prestige can be a powerful deterrent factor.

Another approach that relies on the power of publicity and reputation is for government agencies to publish written and/or electronic lists of those institutions and individuals who have violated environmental laws.

Education

Since some environmental violations arise from ignorance of environmental values or environmentally sound business practices, administrative agencies and courts may be given the power to order violators to attend courses on environmental management. Similarly, authorities might require a company to conduct environmental seminars for their employees and/or third parties.

Suspension and Cancellation of a Permit

Most States authorise administrative agencies or courts to suspend or cancel licenses, permits, concessions, or other official authorisations to conduct business. The suspension or cancellation may be temporary or permanent. Such suspension or cancellation may be based on (1) a violation of the terms and conditions of the authorization; (2) a violation of environmental laws or regulations; or (3) both. Revocation or cancellation may be particularly relevant in the case of repeated violations.

Closing a Facility and Suspending Activities

For particularly egregious environmental violations, administrative agencies and courts usually have the authority to close a facility or operation. The closure may be temporary or permanent, and it may affect the entire facility or part of the facility. Alternatively, an



agency or court might order that a violator immediately cease the harmful activities, which could have the same effect as suspending activities or closing a facility. Locks, seals, and surveillance personnel may be used to ensure the closure.

In Mexico, administrative agencies can close a facility — temporarily or permanently, partially or completely — under three different sets of circumstances. These are:

- (1) when the violator has not complied with the terms and conditions imposed by an agency, with corrective measures, or with an emergency order;
- (2) in cases of recurrent violations where the violations negatively affect the environment; or
- (3) in cases of recurrent violations (three or more) of some corrective or emergency measure(s) imposed by administrative agencies.

In the case of a temporary closure, the agency must identify the necessary corrective measures. Additionally, the competent local or federal authorities can be requested to limit or suspend the installation or operation of industries and other activities that affect or could affect the environment.

Denial of Government Funding

Another enforcement option is to deny violators access to government contracts, procurement, and other sources of funding. Violators are placed on a list of firms from which government agencies will not purchase goods and services, or provide loans or guarantees.

The lists are shared with other government agencies that purchase services or goods from industry. The name is removed once the firm returns to compliance. In the United States, this sanction has been effective in several difficult compliance cases.

Retention and Seizure

Retention is an administrative sanction. UNEP has defined it as “ordering and maintaining prohibition, under security or under the seal of the competent authority, of the transfer, use and consumption of goods of a questionable nature or in dubious condition, when there are facts indicating that their use or consumption may be harmful or hazardous to any element of the environment, to the balance of ecosystems or to the population’s health and quality of life, until tests are conducted which resolve the situation.”

Seizure is a more severe sanction, constituting forfeiture or loss of property (real or personal) to the Government. In the specific context of environmental enforcement, seizure is usually of property that has been instrumental in causing violations of environmental laws or regulations, or has been the product of such violations. If the seized property is hazardous, the property may be destroyed; otherwise, the Government often sells or otherwise disposes of the seized goods.

Corrective and Other Injunctive Measures

Practically every environmental law grants administrative agencies and/or courts the power to order violators to cease violations of environmental laws, regulations, standards, permits, licenses, and other relevant requirements.

Many environmental laws authorise administrative agencies and courts to seek or require that those persons or institutions whose acts or omissions cause environmental damage to mitigate or repair the damage. Generally, those whose violation of a law or legal requirement causes environmental damage may be required to restore the environment to its prior condition. Sometimes, a court may require the violator to purchase a comparable replacement or to pay other monetary indemnification or damages.

Violators may be required to develop and implement a compliance program. This programme may address preventive, precautionary, mitigation, and remedial measures. As part of a compliance plan, violators may be required to hire a person to act as a full-time on-site environmental monitor. This compliance plan may be time-bound.

Other measures include:

- developing and implementing a pollution prevention plan or an environmental emergency plan;
- carrying out environmental effects monitoring;
- developing and implementing an environmental management system;
- conducting an environmental audit;
- submitting information on the violator’s activities for a set period after the violation;
- paying a performance bond or purchasing environmental insurance; and
- paying for environmental studies, evaluations, and research.

Individual Criminal Liability – Imprisonment and Other Penalties

Jail terms and other criminal sanctions for managers or employees of violating facilities can be an extremely effective deterrent. While the cost of civil, monetary damages can often be internalised (for example, passed on to the customer by a convicted company as a cost of doing business), individuals who face potential imprisonment for violations are much more likely to follow the law even if it means that it affects their business. As noted above, criminal sanctions can only be imposed where allowed by the legal system.

Losing one's liberty through imprisonment can have a particularly strong deterrent effect. In fact, imprisonment has substantial public support in a number of States to punish and deter the most serious violations. In the United States, for example, under most environmental statutes, criminal sanctions can be sought if someone intentionally circumvents a requirement or fraudulently reports data. Criminal cases can be costly to investigate and to prosecute, and they can involve complex procedures. However, in the United States, their deterrent effect has been so great that even a relatively small number of successful cases has caused many companies to change their management approaches.

In addition to imprisonment, criminal penalties include a number of the sanctions set forth above, such as fines, injunctions, publicity, suspension or cancellation of permits or other authorisations, and a temporary or permanent prohibition on contracting with the government. Other penal sanctions may include:

- community service;
- probation;
- house arrest; and
- a bar on work in the offender's previous professional field (either permanent or temporary).



SANCTIONS FOR NON-COMPLIANCE AND INCENTIVES FOR RETURNING TO COMPLIANCE IN BULGARIA

Articles 69 and 70 of Bulgaria's Environmental Protection Act set forth sanctions for environmental damage or pollution in excess of the permissible levels (including non-compliance with emission limit set in permits). The sanctions can be imposed on legal or natural persons.

The Act also provides incentives for violators to come into compliance. Should the persons penalised take action to comply with the established emission limits, for example by developing an investment programme to install the necessary pollution control technology, the said persons only have to pay 10 percent of the fines that would otherwise be due. Usually, this is done by preparing a programme to reduce pollution, which the Ministry of Environment and Water approves. The specific terms and procedure for reduction of the sanctions due are established by regulation. The actual programmes contain confidentiality clauses to protect trade secrets, and in practice they are not made available to the public. Programmes have been adopted by several enterprises in Bulgaria to bring them back into compliance.

There is a strong control system to ensure that a company fulfils the obligations of the compliance programme. If the programme is not implemented in due course, the Minister of Environment and Water shall decree payment of the monthly sanction due in a treble (3X) amount for the entire initial period. It is not possible to extend the time limits for implementing a programme approved by the Minister. The respective Regional Inspectorates on Environment and Water are responsible for control and monitoring functions, but there are also visits on site by experts from the Ministry.

For more information, contact KrapS@moew.government.bg

CTTES photo by Peter Dollinger



Toco Toucan (*Ramphastos toco*).



BRAZIL'S ENVIRONMENTAL CRIMES LAW

The Brazilian Environmental Crimes Law was passed in March of 1998 and is considered to be one of the most modern and comprehensive legal texts focusing on environmental crime. Some of the specific articles that give this law force are highlighted and explained below.

Broad Culpability. Article 2 is important because it establishes culpability, not only for the person who actually breaks a law, but notably, also for any person in a position of authority, person who knew about the illegal activity and failed to stop it or inform the appropriate authorities.

Assignment of Penalties. Article 6 outlines three general criteria that should be considered in the assignment of penalties for an environmental law violation. They are:

1. The seriousness of the act and the intent of the person who committed the act and additionally the seriousness of the repercussions of the act on the environment and human health.
2. If the person who committed the act has a history of environmental law violations.
3. The financial situation of the person who violated the environmental law.

Article 7 explains the circumstances where a person should be punished through a fine, community service or other means, other than imprisonment i.e. when the crime is unintentional i.e. "without malice" or carries a jail term of "up to four years" overall reputation of the offender, his motive and circumstances of the crime.

Aggravating and Mitigating Circumstances. "Aggravating circumstances" is a legal term for factors that can make a penalty more severe. The law requires that these factors be considered when assessing the seriousness of a crime:

1. Frequency of the environmental crimes
2. If the offender was motivated by:
 - monetary gains
 - coercing another to commit the crime
 - serious endangerment of public health

"Mitigating circumstances" is the legal term for factors that can make a penalty less severe. The law requires that these factors be considered when assessing the seriousness of a crime i.e.:

1. Low educational level of the offender
2. The offender's remorse, exhibited by spontaneous reparation of the environmental damage, limitation of the harm caused.

Crimes Against Fauna. Section I of the law contains a detailed list of actions that are considered to be crimes against fauna, or animal life. A person who commits one of

Brazil's Environmental Crimes Law (cont'd)

these acts is automatically violating the law and is subject to the prescribed penalty, which in this case, is imprisonment for six months to one year and a fine.

The law also includes the aggravating and mitigating circumstances that should be considered when determining the penalties. For example, the penalty is increased by half, if the crime is committed:

1. Against rare species or species considered endangered, even if only at the site of violation;
2. In the period in which hunting is prohibited;
3. During the night;
4. By abusing the license;
5. Within a protected area;
6. By using methods or instruments capable of provoking mass destruction.

Crime Against Flora. Section II of the law contains a detailed list of actions that are considered to be crimes against flora, or plant life. A person who commits one of these acts is automatically violating the law and is subject to the prescribed penalty, which varies according to the crime. The law also included the aggravating and mitigating circumstances that should be considered when determining the penalties. Thus, for the examples given here, the penalty is to be increased by one sixth to one third if:

1. A result of the fact is the decrease of natural waters, soil erosion or modification of climatic regime;
2. The crime is committed:
 - a) during the period of seed dispersion;
 - b) during the period of vegetation formation;
 - c) against rare or endangered species, even if only endangered at the site of the crime;
 - d) during times of flooding or drought;
 - e) during the night, on Sundays, and holidays.

Pollution and Other Environmental Crimes. Section III of the law contains a detailed list of actions that are pollution and other environmental crimes. A person who commits one of these acts is automatically violating the law and is subject to the prescribed penalty. The law also includes the aggravating and mitigating circumstances that should be considered when determining the penalties.

Crimes Against Environmental Administration. The section on crimes against environmental administration generally includes violations committed by civil servants that harm the environment in some way. For example, making false statements or issuing environmental permits illegally. The penalties for each of these types of violations are prescribed in the law, as well as the aggravating and mitigating circumstances.



OFFENCES AND PENALTIES FOR PESTICIDE VIOLATIONS IN THE GAMBIA

The National Environment Management Act of the Gambia defines environmental offences and stipulates penalties for those offences. Offences relating to pesticides include, for example, the failure to manage hazardous and dangerous materials, processes, and wastes; knowingly mislabeling any wastes, chemicals, or dangerous process or materials; withholding information on these substances; or aiding or abetting their illegal traffic, in accordance with the provisions of the Act. The Act defines the penalties imposed in such circumstances. Any natural person who commits such an offence is liable to a fine of not more than 100,000 Dalasis (approximately US\$3,700) or to a term of imprisonment of not more than six years. In the case of a body corporate, the penalty shall be a fine of not more than 500,000 Dalasis (approximately US\$18,500).

The Hazardous Chemicals and Pesticides Control and Management Act sets forth penalties for a range of offences including:

- Any person who provides false information during application for registration of a pesticide; manufactures or sells an unregistered or banned pesticide; mislabels, or uses unauthorised containers; or commercially applies pesticides without a valid license, commits an offence and is liable upon conviction to a fine not exceeding 150,000 Dalasis (approximately US\$5,555) or to a prison term not exceeding five years, or both.
- Any person who manufactures, imports, exports, stores, distributes, transports, sells, or offers for sale any pesticide without a license issued under this Act or undertakes activities on premises other than those licensed under this Act, commits an offence and is liable upon conviction to a fine not exceeding 50,000 Dalasis (approximately US\$1,850) or to a term of imprisonment not exceeding four years, or both.
- A person who commits an offence under this Act for which no penalty is provided shall be liable on conviction to a fine not exceeding 30,000 Dalasis (approximately US\$1,110) or to a term of imprisonment not exceeding three years.

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COMPOUNDING OF PENALTIES IN DOMINICA

In Dominica, one of the most effective tools for enforcement is compounding of penalties. Compounding is a process of levying fines and penalties against an offender for offences in a State-owned forest. It is an administrative process, and imprisonment cannot be imposed in compounding. Compounding is effective due to direct “in house” penalties that are established through environmental laws and laws relating generally to penalties. Also, it avoids what can be a prolonged legal process involving the courts. [In addition to compounding, there is the possibility of seeking both a fine and imprisonment through the courts. This conveys the public stigma that the environmental violator is a serious criminal. It also sends an encouraging sign to forest officers that their efforts to enforce the law are being effective.]

Administrative officials have the power to levy fines in an efficient manner. For example, for CITES violations and other environmental infractions relating to forestry and fisheries, the Director of the Forestry, Wildlife, and Parks Division can take the offender to his office and decide the case then and there. The penalties that the Director can levy include confiscation and fines. The Ministry of agriculture and the Environment does not hold onto the fines and is not able to use those funds for environmental protection efforts; instead, the funds are deposited into Government’s general revenues.

To avoid abuse or corruption, the monies collected for fines are received via receipts and accounted for as sources of Government revenue. In addition, the Director is a junior accounting officer and holds a legal position in the national enlistment (who has an official legal mandate).

For more information, contact Mr. Eric Hypolite at forestry@cwdom.dm



ADJUSTING PENALTIES TO BE MORE EFFECTIVE IN ST. LUCIA

St. Lucia has increased penalties for environmental violations in order to make its environmental laws more effective. For example, under an old law, there was a maximum fine of EC\$5,000 (US\$1860) or one year in jail for persons caught illegally possessing protected wildlife (such as the St. Lucia Parrot, the country’s national bird). Experience in a number of cases showed that these fines were insufficient to deter violations, as the market for illegal products was often quite lucrative.

In drafting the new CITES implementing legislation, St. Lucia sought to provide a stronger deterrent to violations. Under the new CITES Act, the fines have been increased to a maximum of EC\$50,000 (US\$18,600), imprisonment of up to two years, or both. For species listed under CITES Appendix I — including the St. Lucia Parrot — the fine was increased to a maximum of EC\$100,000 (US\$37,200) and/or a prison term of up to five years.

For more information, contact Ms. Anita James at biodivproject@slubiodiv.org



SANCTIONS FOR ENVIRONMENTAL VIOLATIONS IN GUYANA

Guyana's Environmental Protection Act, Cap. 20:05 of the Laws of Guyana (Act No. 11 of 1996), establishes a wide range of sanctions for violations of the Act, as well as directions by the Environmental Protection Agency that are necessary for the implementation of any obligations of Guyana under any treaty or international law relating to environmental protection [Section 13(1)(c)]. These sanctions include, but are not limited to:

- Monetary fines. If the offender benefited monetarily from the violation, the court may impose an additional fine in an amount equal to the court's estimation of the amount of those monetary benefits. To expedite payment, authorised officers of the Agency can offer the offender the possibility to discharge liabilities if they immediately pay the Agency an amount of two-thirds of the minimum penalty prescribed.
- Suspension, cancellation, or revocation of a permit or authorisation.
- Order to cease (or make no changes to) construction, operation, or other activities.
- Prohibition notices (similar to an injunction).
- Take certain actions to prevent, correct, mitigate, restore, or otherwise address environmental harm within a specified time.
- Community service.
- Naming and shaming. A convicted environmental offender can be ordered to publish the facts and notify the aggrieved party or parties at the offender's own cost. If the offender does not comply with this order, the Agency may publish and recover its costs.
- Post a bond or pay an amount of money to court as necessary to ensure compliance.
- Compensate the Agency for remedial or preventive action (including costs of an independent study into the excessive discharge of contaminants, where the violation related to excessive discharge) as a result of the offence.

To encourage violators to come into compliance quickly, the Act provides that if offences continue after a conviction, penalties are instituted for each day that the offence continues.

The Act empowers the Minister to undertake emergency response activities as required to protect human health or the environment, and in conjunction with other appropriate governmental entities, particularly where a person has not complied with an enforcement order.

Guyana also imposes an obligation on authorities to enforce environmental laws diligently. Local authorities and other authorities who are aware of an environmental violation and do not notify the Agency, do not apply all possible measures to prevent an environmental violation, or do not carry out the orders of the Minister, are also liable to penalties.

The Agency maintains open-to-the-public registers of each cancellation, revocation,

Sanctions for Environmental Violations in Guyana(cont'd)

variation or transfer, enforcement and prohibition notice, incident or occurrence causing environmental harm, prosecution, enforcement action, annual returns, type and quantity of contaminants/pollutants, etc. Developers are required to submit annual returns and other pollutant information failing which penalties are instituted.

The Fifth Schedule of the Environmental Protection Act sets forth prescribed penalties for various offenses established in the Act.

For more information, see <http://www.epaguyana.org> or contact Ms. Eliza Florendo eflorendo@epaguyana.org or Ms. Emilia Maslen emaslen@epaguyana.org



SETTING APPROPRIATE ADMINISTRATIVE AND CIVIL MONETARY PENALTIES IN THE UNITED STATES

In the United States, the statutory penalty set by law provides the upper limit of the penalty amount. Under a typical federal pollution-control statute, each day of exceedance (i.e., that emissions exceed the allowed amount under a permit) for each controlled pollutant is a separate violation, and each day of violation may be penalized up to US\$32,500 per day. Violations continuing for a period of time or for multiple pollutants can reach a maximum penalty of tens or hundreds of millions of dollars. By referring to such a large possible penalty, the U.S. Environmental Protection Agency (USEPA) quickly gets the attention of a violator.

But USEPA's goal is not to collect the highest possible penalties, as the highest penalties could cause unemployment by bankrupting and closing enterprises. Assuming that a violating enterprise wants to remain open, USEPA first requires the facility to install all the required pollution control equipment. Then USEPA applies written penalty policies designed to motivate action. Comprising both "sticks" and "carrots," USEPA penalties encourage the right behavior and benefit the environment and communities that have been impacted by violator's actions. Specifically, USEPA takes the following three steps:

1. **Assessing "Compensatory" Penalty Component to Recover the Economic Benefit of Noncompliance:** In this initial step of the penalty calculation, USEPA applies an effective "economic instrument" by which "the polluting violator pays". In this regard, USEPA's economic goal is to level the economic playing field in the business sector of which the violator is a member. USEPA sets the monetary penalty at a level that recovers from the violator the full "economic benefit of non-compliance," in order to recapture the violator's wrongful cost savings from not controlling pollution, and from undercutting non-polluting competitors. The wrongful savings pocketed by the violator becomes the "compensatory" element of the penalty. "BEN" is the name of USEPA's model (see <http://www.epa.gov/oeca/datasys/dsm2.html>) that is used to calculate the present value of the violator's failure to buy, install, and operate pollution-control technology.

Setting Appropriate Administrative and Civil Monetary Penalties in the United States(cont'd)

Because a violator should not keep any wrongful gain, the compensatory penalty amount is almost always recovered and usually is not reduced in settlement negotiations.

2. Adding the "Punitive" Component of the Penalty: If the only payment required were to be compensatory to restore the level playing field, most enterprises would just wait to comply after they are first caught. To create a reason for business to comply immediately and "voluntarily" and to deter others from violating the law, in this second step of the penalty calculation, USEPA adds a punitive – called "gravity based" – element to increase the penalty. This is imposed on the first significant violation (there is no "free" or unpunished first violation of significance). The penalty amount is adjusted upward by considering factors such as the extent of departure from required behavior and whether there was the potential or actuality of environmental harm. Penalties may be adjusted downward in consideration of mitigating factors such as the defendant's cooperation and lack of prior offenses.
3. Reducing Penalties by the Value of Voluntary Work to Go Beyond Compliance: The optional, third step to calculate a violator's penalty – agreement to a "Supplemental Environmental Project" – is described in the case study on "Economic Instruments that Provide Incentives to Exceed Compliance in the United States" following Guideline 41(g).



For more information, see <http://www.epa.gov/ebtpages/compsettlementpenalty.html>



PENALTIES FOR ENVIRONMENTAL VIOLATIONS IN THE DOMINICAN REPUBLIC

In the Dominican Republic, penalties for environmental violations are established in terms of minimum monthly salaries, inter alia. The minimum monthly salary is set by the Ministry of Labor, and in January 2006 the minimum monthly salary was 3,900 Dominican Pesos, or approximately US\$111. The advantage of using penalties based on units of the minimum monthly salary is that the penalties can be easily and readily adjusted to account for economic country inflation. In this way, the penalties assure their ongoing validity over the time, with respect to both their deterrence and punishment values.

Article 167 of the Dominican Republic's Environmental Law (64-00) authorises the Ministry of Environment to issue administrative penalties for violations of the Law. These administrative measures include: penalties ranging from one-half (1/2) of the minimum monthly salary up to 3,000 minimum salaries. The minimum salary corresponds to the particular date of infraction. The precise penalty – where in the

Penalties for Environmental Violations in the Dominican Republic (cont'd)

range of 0.5 to 3,000 minimum salaries – depends on (1) the specific economic status of the physical or juridical person that caused the damage, and on (2) the magnitude of the environmental harm.

Article 176 of the Law establishes penalties for violations by legal persons (i.e., businesses and other entities). These penalties range from 5,000 minimum monthly salaries up to 20,000 minimum monthly salaries.

Article 183 of the Law authorises the court of law to impose penalties against natural and legal/juridical persons for violations of the Law. These penalties range from one-fourth (1/4) of the minimum monthly salary up to 10,000 minimum salaries. For these purposes, the minimum monthly salary that is in force at the time of the judgment is used.

For more information,

see <http://www.medioambiente.gov.do/> or contact sga@medioambiente.gov.do



ZAMBIAN PENALTIES AND FINES ACT

In Zambia, statutes provide that penalties that are to be paid for fines arising from legal proceedings are quoted in terms of standardised units. The standardised unit is set by the Penalties and Fines Act. The value of a unit can be adjusted to account for inflation, and thereby retain the fines' deterrent and punitive effects. It is much easier to change the fines to account for inflation: instead of going to Parliament to revise fines (environmental and otherwise), it can be done by way of a Statutory Instrument.

For more information, contact the Zambian Ministry of Justice at + 260-1-252047/1588/2045/2060.



Staghorn coral surrounded by reef fish.



ASSESSING AND VALUING DAMAGE UNDER THE COASTAL ZONE MANAGEMENT ACT OF BARBADOS

The Coastal Zone Management Act (CZMA), 1998-39, stipulates that any person damaging coral is guilty of an offence and is liable on summary conviction to a fine of BBD\$300.00 (approximately US\$148.50) for every square meter of coral reef damaged, imprisonment for five years, or both. There is a standard procedure to determine extent of damage to the coral reef area; the extent is usually spatial (length by width), but in some cases the depth of damage is also considered. This is mainly focused on anchor damage from dragging or chain sweep once a report has been made to the office. The damage is then costed using the areal extent and the fine set forth in the CZMA. This means of valuing coral reef damage informs all processes of assessing compensation (including out-of-court settlements)

The CZMA also provides that any person who breaks off a piece of coral from a reef is guilty of an offence and is liable on summary conviction to a fine of BBD\$5,000.00 (approximately US\$2,475), imprisonment for two years, or both. This fine is applied to persons caught "picking" corals for sale. As a practical matter, these cases can be difficult as it is necessary to capture the individual with the corals in their boat while in the process of harvesting.

Assessing and Valuing Damage under the Coastal Zone Management Act of Barbados(cont'd)

For more information, contact Dr. Leo Brewster (director@coastal.gov.bb) or Dr. Lorna Innis (linnis@coastal.gov.bb) in the Coastal Zone Management Unit of the Ministry of Housing, Lands and the Environment.



PENALTIES FOR VIOLATION OF ARGENTINA'S HAZARDOUS WASTE LAW

In Argentina, Law No. 24,051 (approved by the National Congress on 17 December 1991; published in the Official Bulletin on 17 January 1992) governs the generation, processing, transport, treatment, and final disposal of hazardous wastes. These include those wastes that are listed in Annex I of the Law as well as those possessing characteristics set forth in Annex II (these annexes are identical to Annexes I and II of Basel Convention, which Argentina approved through Law No. 23,922).

Under this Law, the competent authority is the Secretariat of Environment and Sustainable Development (Secretaría de Ambiente y Desarrollo Sustentable, or SAyDS), which is within the Ministry of Health and Environment.

Article 49 of the Law sets forth the penalties for violations of the Law, its regulations, and standards. These penalties include:

- a) A formal warning;
- b) A fine ranging from 5,000 to 500,000 Argentine Pesos (approx. US\$1,670-167,000);
- c) Suspension of the permit from the National Registry of Hazardous Wastes for a period of 30 days to 1 year; and
- d) Cancellation of the permit for the facility.

The suspension or cancellation of a permit requires that the facility cease operations or close permanently. The sanctions are applied regardless of whether there is civil or criminal liability, and the sanctions may be cumulative.

The competent sector maintains a registry of the violating companies. Under Law No. 25.831 on Public Access to Environmental Information, in the future this registry will be published on the Internet and could be consulted by users.

The fines are applied initially through an administrative process that guarantees the rights of the accused violator. The process also takes into account the nature of the violation and the nature of the damage arising from the violation.

In case of recidivism (i.e., repeated violations), the sanctions will be multiplied applying a formula established by the Law. Thus, for the third violation within a period of three years, the competent authority is authorised to cancel the permit from the National Registry of Generators and Operators of Hazardous Wastes.

Penalties for Violation of Argentina's Hazardous Waste Law (cont'd)

Following are a few illustrative examples of how Argentina has applied these sanctions:

- 1999: A fine of 500,000 Pesos (approx. US\$167,000) for a petroleum company due to hazardous waste (mixtures of waste oil and water or hydrocarbons and water) contamination of the Colorado River and its basin.
- 1999: A fine of 200,000 Pesos (approx. US\$67,000) to a facility for contaminating the Paraná River and environment with hazardous wastes.
- 1999: A permit of a treatment plant for pathological and radiological wastes was suspended preventively for 30 days for inadequate management. The suspension was then extended for 45 more days. Finally, a penal sanction was applied and the permit was suspended for 10 months. These penalties were applied through administrative procedures.
- 2004: Suspension of the permit of a treatment facility for inadequate management of pathological and radiological wastes for a term six months; sanction was published in the Official National Bulletin.

For more information, contact Ms. Melina Garcia Luciani mluciani@medioambiente.gov.ar or Ms. Silvana Terzi sterzi@medioambiente.gov.ar



Additional Resources On Defining and Valuing Environmental Damage

As noted above, defining and valuing “environmental damage” includes many legal, cultural, technical, and capacity considerations. The development of environmental valuation is relatively recent, and many developing countries have only started to develop and apply methodologies for assessing damage-based penalties for environmental valuations.

An important resource in this field is *Environmental Damage in International and Comparative Law: Problems of Definition and Valuation*, edited by Michael Bowman and Alan Boyle (Oxford University Press 2002). This volume examines how various countries and international legal regimes define and value environmental damage. It considers civil law, common law, and mixed legal systems in developing and developed states around the world, including: Brazil, Caribbean countries, Germany, Malaysia, Mauritius, Nordic countries, Poland, Scotland, Singapore, and Turkey. The volume also provides experiences in defining and valuing environmental harm in common law systems, international liability regimes, the UN Compensation Commission, and the European Community EC White Paper on Environment Liability and the Recovery of Damages for Injury to Public Natural Resources. It also considers special cases, such as assessing the “intrinsic value” of biological diversity, impacts from living modified organisms, and valuation of indigenous peoples’ lifestyle.

Other Resources

There are many other resources examining approaches for defining and valuing environmental damages in countries around the world, as well as under international law. These references provide more details, and they can be obtained from the publishers, commercial booksellers, and on-line (for example, through Amazon.com). Some of these additional resources include:

Ian J. Bateman et al. (eds.), *Valuing Environmental Preferences: Theory and Practice of the Contingent Valuation Method in the US, EU, and Developing Countries* (Oxford University Press 2002) (focusing on contingent valuation, which attributes monetary value based on questionnaires asking people what they would be willing to pay for (or accept for the loss of) a particular environmental good, service, or attribute).

Jennifer Reitbergen-McCracken & Hussein Abaza (eds.), *Environmental Valuation: A Worldwide Compendium of Case Studies* (Earthscan 2000).

OECD Task Force for the Implementation of the Environmental Action Programmes for Central and Eastern Europe (EAP), *Background Paper on Valuing Environmental Benefits and Damages in the NIS: Opportunities to Integrate Environmental Concerns into Policy and Investment Decisions*, OECD Doc. CCNM/ENV/EAP/MIN(2000)3 (2000), available at <http://www.oecd.org/dataoecd/22/48/2382184.pdf> (providing an overview of different valuation methods, as well as suggested applications of environmental valuation at the national, regional, and municipal levels and experiences in environmental valuation from NIS countries).

Regional Environmental Center for Central and Eastern Europe, *Natural Capital: The Role and Valuation of Natural Assets in Central and Eastern Europe* (REC 1994).

UNEP, *Application and Use of Economic Instruments for Environmental and Natural Resources Management: Training Resource Manual* (2004).

UNEP, *Environmental Liability & Compensation Regimes: A Review* (UNEP 2003) (including a survey of national, regional, and global regimes).

See also the “Checklist on Environmental Valuation Studies” following Guideline 40 and discussion of economic instruments following Guideline 41(g).

D. Institutional Frameworks

[41]

States should consider an institutional framework that promotes:

- (a) *Designation of responsibilities to agencies for:*
 - (i) *Enforcement of laws and regulations;*
 - (ii) *Monitoring and evaluation of implementation;*
 - (iii) *Collection, reporting and analysis of data, including its qualitative and quantitative verification and provision of information about investigations;*
 - (iv) *Awareness raising and publicity, in particular for the regulated community, and education for the general public;*
 - (v) *Assistance to courts, tribunals and other related agencies, where appropriate, which may be supported by relevant information and data.*
- (b) *Control of the import and export of substances and endangered species, including the tracking of shipments, inspection and other enforcement activities at border crossings, ports and other areas of known or suspected illegal activity;*
- (c) *Clear authority for enforcement agencies and others involved in enforcement activities to:*
 - (i) *Obtain information on relevant aspects of implementation;*
 - (ii) *Have access to relevant facilities including ports and border crossings;*
 - (iii) *Monitor and verify compliance with national laws and regulations;*
 - (iv) *Order action to prevent and remedy environmental law violations;*
 - (v) *Coordinate with other agencies;*
 - (vi) *Impose sanctions including penalties for environmental law violations and non-compliance.*
- (d) *Policies and procedures that ensure fair and consistent enforcement and imposition of penalties based on established criteria and sentencing guidelines that, for example, credibly reflect the relative severity of harm, history of non-compliance or environmental law violations, remedial costs and illegal profits;*
- (e) *Criteria for enforcement priorities that may be based on harm caused or risk of harm to the environment, type or severity of environmental law violation or geographic area;*
- (f) *Establishing or strengthening national environmental crime units to complement civil and administrative enforcement programmes;*
- (g) *Use of economic instruments, including user fees, pollution fees and other measures promoting economically efficient compliance;*
- (h) *Certification systems;*

- CH II - D**
- (i) *Access of the public and civil society to administrative and judicial procedures to challenge acts and omissions by public authorities and corporate persons that contravene national environmental laws and regulations, including support for public access to justice with due regard to differences in legal systems and circumstances;*
 - (j) *Public access to environmental information held by Governments and relevant agencies in conformity with national and applicable international law concerning access, transparency and appropriate handling of confidential or protected information;*
 - (k) *Responsibilities and processes for participation of the appropriate community and non-governmental organizations in processes contributing to the protection of the environment;*
 - (l) *Informing legislative, executive and other public bodies of the environmental actions taken and results achieved;*
 - (m) *Use of the media to publicize environmental law violations and enforcement actions, while highlighting examples of positive environmental achievements;*
 - (n) *Periodic review of the adequacy of existing laws, regulations and policies in terms of fulfilment of their environmental objectives;*
 - (o) *Provision of courts which can impose appropriate penalties for violations of environmental laws and regulations, as well as other consequences.*

A State's institutional framework plays a very important role in the way the international and national environmental laws are implemented. Some States delegate responsibility to one agency that serves as the focal point for all environmental matters and cooperates with other agencies in this regard. Other States delegate different responsibilities to various agencies, such as ministries for agriculture, water resources, etc. Although the structure of the institutional frameworks will vary from State to State, some aspects are universal, such as the need for a clear mandate of authority for enforcement bodies and the establishment of policies and procedures that allow enforcement to be carried out in a fair and consistent manner.

Guideline 41, addressing institutional frameworks, focuses on the main roles, responsibilities, and authority of the agency or agencies charged with the implementation of national environmental law established by a State to meet its obligations under an MEA.

Designation of Responsibilities for Enforcement

[41] (a) (i) *Designation of responsibilities to agencies for: Enforcement of laws and regulations;*

There is a need to establish institutions by law with clear mandates and responsibilities as well as a need for coordination mechanisms among environmental sectors.



KENYA'S ENVIRONMENTAL INSTITUTIONAL FRAMEWORK

In Kenya, the Environmental Management and Coordination Act (2000) charges the following national institutions with the responsibility of achieving effective and efficient management of the environment in the State:

- (i) The National Environment Council;
- (ii) The National Environment Management Authority and Board;
- (iii) The National Environment Action Plan Committee;
- (iv) The Public Complaints Committee; and
- (v) The National Environment Tribunal.



JAMAICA'S NATURAL RESOURCES CONSERVATION AUTHORITY

In Jamaica, the Natural Resources Conservation Authority (NRCA) is the central agency for the implementation for Multilateral Environmental Agreements in Jamaica. The Authority has been designated as the focal point for activity related to implementing Jamaica's rights and obligations under several MEAs. The Authority provides support and a coordinating function in relation to all environmental agreements to which the Government of Jamaica is Party. The Authority also performs the role of "default agency" – where an MEA is not the responsibility of any other specific agency it may be concluded that the Authority has the responsibility for its implementation. To this end, the Authority has undertaken or coordinated a number of MEA project-based activities, has developed a large number of policy documents critical to MEA implementation, and has delegated management functions related to MEA implementation to non-governmental organisations.

Administration of MEAs necessarily falls upon the NRCA in the absence of specific designation of other agency because the Authority has broad responsibility for protecting and conserving the physical environment of Jamaica.

Jamaica's Natural Resources Conservation Authority (cont'd)

General Roles and Responsibilities of Jamaica's NRCA:

- Plays a coordinating role in relation to the implementation of all environmental treaties by virtue of its lead agency status.
- Has broad responsibility for protecting and conserving the physical environment of Jamaica. There are also statutory provisions requiring consultation and collaboration between the NRCA and other agencies exercising environmental functions. Coordination is presently most evident with Planning and Ministry of Agriculture officials.
- Has attracted international funding for several of its activities in addition to the domestic sources of funding identified in its parent statute.
- Undertakes MEA project-related activities.
- Develops policy documents that directly impact MEA implementation.

Where constraint of resources has threatened to curtail implementing activity the NRCA has developed the innovative technique of delegating management functions to non-governmental organisations.

Environmental Prosecutor Offices

In order to ensure that environmental offences are investigated and prosecuted, many States have established public prosecutor offices with a specific environmental mandate. These offices have the benefit that they are specially trained, funded, and charged with pursuing environmental violations and offences. Moreover, experience has shown that general prosecutor offices often are overwhelmed by murders, rapes, organised crime, and other violent crimes — and often are not enthusiastic about devoting scarce resources to environmental violations and offences. A specialised environmental public prosecutor office can provide an institution that ensures that environmental wrongs are prosecuted.

One approach to environmental prosecutor offices is Russia's Inter-regional environmental protection public prosecutor offices. These offices have responsibility for several administrative-territorial units and are organised along the lines of water basins.

To promote effective case preparation and presentation, some environmental prosecutor offices have prepared guidelines for their attorneys to follow (see for example, the case study on "Guidelines for Prosecuting and Hearing Environmental Cases in Uganda" fol-



Carcass of an elephant shot by ivory poachers, Tsavo National Park, Kenya.

Environmental Investigation Agency



Following Guideline 41(d). Indeed, the specialised nature of such offices sometimes means that the offices are called upon to prepare similar guidelines for judges to hear environmental cases or to build the capacity of inspectors, judges, and other officers involved in environmental cases.

In establishing and operating specialised environmental prosecutor offices, there are some potential problems that may need to be addressed. In some States, environmental prosecutors have not actually developed environmental cases that could be presented to the courts; instead, they were simply another layer of control and ultimately an administrative burden. In these instances, the environmental prosecutors are relegated to providing a secondary inspection and a form of appeal mechanism.

☑ CHECKLIST FOR PROSECUTING ENVIRONMENTAL CASES

Many issues may be raised and disputed in typical enforcement actions. Enforcement officials should be prepared to:

- Assemble and review evidence sufficient to establish a violation of law, including working with investigators and experts.
- Prove that a violation has occurred. The standard of proof may vary, depending on whether the prosecution is administrative, civil, or criminal and how liability is imposed (e.g., negligence, strict liability).
- Establish that the procedures and policies were fairly and equitably followed and that the violator is not being unduly “singled out.”
- Demonstrate the underlying environmental or public health purpose for the requirement being violated, or harm caused or threatened to be caused to those interests by the violation. (It may be necessary to reiterate the importance of the requirement, and compliance with the requirement, to justify and support an enforcement case. This is particularly true when a case is being argued in front of an independent decision-maker who is not familiar with the requirement or its environmental or public health benefits).
- Demonstrate that a remedy for the violation is available (e.g., affordable pollution control equipment). Even though this is not usually the responsibility of the Government, this information can be important to negotiations.
- Establish the damages caused by the violation or establish the appropriate sanction or remedy that the law sets for the violation. Often laws provide a range of sanctions, and a prosecutor may need to prove to the trier of fact (e.g., the judge) what is the appropriate fine or other sanction.
- Demonstrate the ability of the violator to pay, e.g. showing that a “poor” facility is owned by a wealthy parent company. This also goes to the appropriateness of the requested penalty.
- In appropriate cases, consider the alternative of settlement, especially if an agreement can be worked out that may provide greater benefits to public health or the environment.

This checklist expands upon materials from INECE.



VERTICAL DESIGNATION OF ENFORCEMENT RESPONSIBILITIES FOR ENFORCING POLLUTION-CONTROL LAWS IN THE UNITED STATES

Since the United States is a large and diverse nation, it has been a challenge to allocate horizontal and vertical responsibilities for enforcing pollution control laws. Governmental sub-units are divided geographically, and Government agencies are divided functionally but those duties may overlap or fail to meet. It is also necessary to differentiate vertically among different levels of government, the topic presented here. This is particularly true as the U.S. is a federal nation. There will always be tension between the national goal that there be consistency or harmonisation of approaches throughout the nation, and the universal recognition that local people closest to an environmental problem often bring greater concern, insight, and energy to solving it.

The U.S. Constitution of 1789 established the framework relationship between the sub-national States and the national government. While it is supreme and above the States in functions or fields of competence such as interstate commerce, in many fields State Governments have retained their traditional powers and residual sovereignty. In the U.S., the relationship between (1) upper-level, national Government and (2) lower-level State Governments is not unitary. U.S. States operate with three branches of Government similar to those of the national government. In fact, many state and local Governments have legislative authority to protect the environments (e.g., through their Constitutions, statutes, or ordinances). This authority is not necessarily trumped by federal authority, although issues of national preemption and supremacy do arise. Indeed, much enforcement happens at the local and state levels without the federal Government becoming involved, and many federal pollution-control statutes allow states to take the lead. So rather than picture the national Government as always placed above the States, it is perhaps more accurate to see the national and State Governments as often operating side-by-side or in parallel – and more in partnership than in a hierarchy.

The division of enforcement responsibilities for pollution control between the national Government and the 50 States has required national leadership and a well-planned decentralization. This has been achieved by applying several tools of environmental federalism, including:

1. National legal authority clarifying what level of sub-national (i.e., State) authority is allowed, required, or retained for standard setting, compliance monitoring, and enforcement (including prosecution);
2. National approval procedures for the qualification of sub-national programmes to assume responsibility for administering and enforcing federally mandated environmental laws (usually these procedures have requirements regarding the sub-national legal authority and programme resources including trained staff able to implement them);
3. National support mechanisms to encourage sub-national units, including capacity building, training, and grants of funding to help implement programmes;

Vertical Designation of Enforcement Responsibilities for Enforcing Pollution-Control Laws in the United States (cont'd)

4. National oversight mechanisms, performance standards, and reporting requirements for sub-national units (see case study following Guideline 42(a) on "State/EPA Enforcement [Performance] Agreements"), and consequences for sub-national failures to perform; and
5. Intergovernmental dispute resolution mechanisms for resolving tensions inherent in federalism.

Since 1970, U.S. national pollution-control laws have been written and applied recognizing the advantages of a high degree of decentralization (Accordingly, the laws provide mechanisms for devolving much national authority to the States) and also the role for a central, federal administrative agency. The U.S. Environmental Protection Agency (USEPA) has its headquarters in Washington, DC. Below it hierarchically are ten USEPA "Regional Offices," each one of which works with about five States. (There is not space here to discuss smaller sub-national units, including counties and local Governments, or tribal Governments of the Native American nations.) Some national functions have not been fully shared or devolved (including scientific research and development, standard-setting based on scientific findings, information management, planning and tracking of performance, and control of inter-jurisdictional or trans-boundary issues. But for many, perhaps 80% of USEPA programs including pollution-control enforcement, State agencies have the opportunity to exercise the primary authority. For most States, achieving such a voluntary partnership with the national Government has been a major reason for the successful application of environment enforcement measures throughout the country. However, unlike many other federal nations, the national Government does not entirely cede the enforcement function to the sub-national units; instead, USEPA shares enforcement, retaining the authority and the resources to enforce directly against violators when a State fails to take timely and appropriate enforcement action.

For more information, see <http://www.epa.gov/epahome/organization.htm>

Moreover, in the United States, other agencies are given responsibility for the enforcement of natural resources laws, including fisheries, wildlife, forests, and other resources. All of these agencies may refer matters for judicial enforcement to a special unit within the Department of Justice (see case study on "Specialized Environmental Administrative Tribunals and Prosecutors in the United States" following Guideline 41(a)(v)).



[41(c)(v)]

[42(a)]

Designation of Responsibilities for Monitoring and Evaluation

[41] (a) (ii) *Designation of responsibilities to agencies for: Monitoring and evaluation of implementation;*

A key factor to providing environmental protection is assuring compliance by the regulated community with environmental laws and regulations through effective monitoring and compliance assessment. Unless there is compliance with the requirements that are designed to provide the necessary environmental protection, the promulgation of laws and regulations may have little impact.

The Vocabulary of Compliance Monitoring

Compliance monitoring consists of a wide range of activities in six basic categories, which may overlap.

- Surveillance is generally a pre-inspection activity which consists of obtaining general site information prior to actually entering the facility. This may include observations of activity at the site or informal sampling;
- Inspections (on site) may include record reviews, observations, sampling, interviews, etc., and may be single or multi-media, facility or industry sector-based, or have a geographic or ecosystem focus;
- Investigations are generally more comprehensive than inspections and may be warranted when an inspection or record review suggests the potential for serious, widespread, and/or continuing civil or criminal violations;
- Record reviews may be conducted at the lead agency headquarters, regional or local offices, or at the facility, and may or may not be combined with fieldwork. Records may be derived from routine self-monitoring requirements, inspection reports, citizen/employee tips, or remote sensing;
- Targeted information gathering may be used to provide or acquire more accurate information on the status of compliance and/or environmental conditions;
- Compliance monitoring of work required by regulation, permit, order or settlement includes ensuring timely submissions, review of submittals for adequacy and oversight of remedial activities.

Elements of these activities may include sampling, sample analysis, observations, issuance of information requirement letters or subpoenas, and ensuring data quality. (Source: United States EPA).



MAPPING BRAZIL'S CORAL REEFS

Brazil's coral reefs are distributed along 3,000 km of the northeastern coast. These are the only reef environments in the South Atlantic Ocean. Presently, Brazil has nine protected areas within this ecosystem. These include sites designated under the Ramsar Convention and the World Heritage Convention.

To improve management and protection of these critically important environments, Brazil mapped the coral reefs that are located in the various protected areas. This mapping process used remote sensing data and geographical information system technology. This project was carried out with financial support of the Wetlands for the Future Fund (see case study on "Financial Mechanisms for Implementing the Ramsar Convention" following Guideline 33). The partner institutions responsible for the project were the Directorate of Protected Areas (within the Ministry of the Environment), the National Institute for Space Research (INPE), and the Coastal Reef Project (a project coordinated by the Federal University of Pernambuco).



These maps are now part of a digital database that formed the basis for an Atlas of Coral Reefs in Protected Areas in Brazil. This information can be used as background to inform management plans, as a baseline to detect changes in habitats over time, and as a basis to plan monitoring strategies. Because the information is in a digital database, it is easy to update it as new information is acquired from the field. The Atlas includes contributions from 11 authors, and there are 39 maps of the nine protected areas included in the project. This project is also aimed at training managers working in protected areas on the use of geo-technologies such as digital image processing and geo-database creation. Other initiatives to protect Brazil's coral reefs are also presented in the Atlas, including the Coral Reef Conservation Campaign and Program for Monitoring Brazilian Reefs.

A revised and extended second edition of the Atlas was released during COP8 of the Convention on Biological Diversity, held in Curitiba, Brazil, in March 2006. This edition includes a new chapter with 20 new thematic maps of areas among the protected areas, from the state of Rio Grande do Sul north to the southern part of Bahia. These new maps focus on areas representative of shallow reefs in protected areas. Also, this new edition has another chapter about the Coral Vivo Project, which highlights recent studies regarding the reproduction, recruitment, and distribution of corals from Brazilian reefs with the aim of establishing practices to recover coral populations of degraded reefs.

For more information, see

**<http://www.mma.gov.br> or contact livia.loiola@mma.gov.br,
ana-paula.prates@mma.gov.br, larissa.godoy@mma.gov.br,
maria-carolina.hazin@mma.gov.br, or raquel.breda@mma.gov.br**



PARTICIPATORY MANAGEMENT AND MONITORING OF PROTECTED AREAS IN THE PHILIPPINES

In the Philippines, protected areas are established and managed through the National Integrated Protected Areas System (NIPAS). Participatory management for each established protected area is central to effective implementation of the NIPAS.

Management of each protected area is supervised by a Protected Area Management Board (PAMB). The Board is composed of representatives of the various local stakeholders such as the DENR Regional Executive Director, the Provincial Development Officer, representatives from the Municipal Government, the Barangay, tribal communities, concerned NGOs, and other agencies in the area. The members are formally appointed by the DENR Secretary and serve for a term of five years, without compensation. If a protected area has a large PAMB membership, the PAMB creates an Executive Committee which is chaired by the Regional Technical Director or Provincial Officer of the DENR and composed of at least two representatives from the local government, concerned NGOs, and indigenous communities.

There are a total of 162 PAMBs in the country that meet regularly to discuss the plans and programmes of their respective protected areas. Involvement of local stakeholders in protected area management through the PAMB has improved public support for the protected areas and the management decisions. Indeed, the public has participated at the early stages of establishing many protected areas and developing the management plans.

The Biodiversity Monitoring System (BMS) was designed to improve the information available for decisionmakers in protected areas through the regular collection of data, focusing on priority species and natural resource utilisation. The stakeholders involved in the implementation of the BMS are the 1) PAMB, 2) protected area staff, and 3) local communities (including local non-government and peoples' organisations). The PAMB responds to issues that are identified through the BMS process and undertakes appropriate management measures to address these issues. The PAMB also ensures that the necessary administrative and financial mechanisms are in place to implement the BMS. The protected area staff are involved in the actual monitoring of biodiversity and regularly report information and recommendations to the PAMB. The local people and communities actively participate in the biodiversity monitoring process through regular focus group discussions with the protected area staff. By this means, they report their observations on the status of biodiversity and their use and offer suggestions on how certain biodiversity and protected area management issues may be addressed. Local communities are also involved in the actual implementation of activities to protect and conserve biodiversity.

The first two years of BMS implementation (1999-2001) yielded promising results in eight protected areas in which the BMS was first applied. In that period, 156 documented management interventions had been implemented on the ground. These activities addressed issues of biodiversity conservation, such as sustainable land and resource use, habitat management and protection, and protection of conservation-

Participatory Management and Monitoring of Protected Areas in the Philippines (cont'd)

dependent species. A total of 105 PAMB resolutions and decisions, including ordinances issued by municipal and barangay councils as well as tribal councils, were passed.

The BMS strengthened the participation of the local stakeholders in the management of the eight sites. The protected area staff work closely with 350 community volunteers to monitor the status of biodiversity and resource use on a regular basis. Together, they discuss their observations and cooperate in the implementation of follow-up actions. All these efforts have contributed to improving the effective management of the protected areas.

For more information, contact Ms. Meriden Maranan at planning@pawb.gov.ph

Compliance monitoring usually focuses on actions to:

- Determine compliance with applicable laws, regulations, permit conditions, orders, and settlement agreements;
- Review and evaluate the activities of the regulated community; and
- Determine whether or not conditions presenting imminent and substantial endangerment may exist.



REMOTE SENSING AND OTHER EMERGING INFORMATION SOURCES

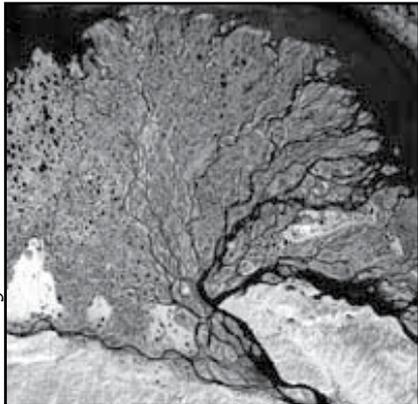
Advances in remote sensing, geographic information systems (GIS), and availability of satellite images have provided new tools to assist developed and developing countries alike in ensuring environmental compliance and enforcement.

These new information tools can increasingly allow enforcement bodies to rapidly collect and analyse data of any location at any time. While monitoring through remote sensing is not appropriate to meeting all the requirements of environmental legislation, recent dramatic developments in satellite capabilities now offer significant new opportunities. For example, remote sensing can provide evidence of responsibility in remote areas, track movements of waste, monitor damage to protected areas or coastlines, and check reporting of national commitments of atmospheric emissions.

There has been growing international interest in whether these emerging technologies could provide rigorous, legally reliable, and cost effective tools for environmental compliance and enforcement. Although still in its infancy as enforcement and monitoring tools, its potential is increasingly being recognised. The use of satellite imagery as a surveillance tool is already expressly authorised in some European Community legislation, which gives Member States the option of using it to monitor claims for farm subsidies and fish catches.

Remote Sensing and other Emerging Information Sources (cont'd)

In seeking to challenge evidence of non-compliance or violations, defendants in legal proceedings may be expected to challenge the the admissibility or reliability of evidence from these new technologies. Evidence from such technologies, however, has been accepted as evidence in cases before the International Court of Justice and in a growing number of national courts across the world. For example, in India, the Supreme Court of India and the High Courts have used satellite images as admissible evidence in forest encroachment cases to ensure compliance with the Forest (Conservation) Act of 1980. In fact, the Supreme Court of India has established the Central Empowered Committee, which is a subsidiary body to review such evidence.



Landsat Image
Lena River delta,

Remote sensing and GIS can also be used proactively in planning to promote compliance. There are still a number of unresolved technical and legal issues associated with the use of remote sensing information in environmental compliance and enforcement initiatives.

University College London (UCL) is undertaking a three-year project that examines "Satellite Monitoring as a Legal Compliance Tool in the Environmental Sector". The project will explore the potential and significance of employing satellite monitoring data as a tool for environmental compliance. It will draw upon international experience to date and assess the opportunities that may be provided.

For more information on the project, see <http://www.ucl.ac.uk/laws/environment/satellites/index.shtml> or contact uctrap@ucl.ac.uk.

Columbia University has also recently concluded a project that examined "Remote Sensing in Support of Ecosystem Management Treaties and Transboundary Conservation".

For more information on that project, see <http://sedac.ciesin.columbia.edu/rs-treaties/laguna.html> or contact adesherbinin@ciesin.columbia.edu
See also <http://www.earthobservations.org>
<http://envisat.esa.int>



Additional Resources For Monitoring And Evaluation

Management Reference Book for Environmental Inspectorates (IMPEL 2003), available at http://europa.eu.int/comm/environment/impel/managment_reference_book.htm (with examples of good practice from many European countries).

Annette B. Killmer, "Designing Mandatory Disclosure to Promote Synergies Between Public and Private Enforcement," in Durwood Zaelke et al., *Making Law Work: Environmental Compliance & Sustainable Development*, Vol. 2, p. 49 (Cameron May 2005), reprinted and available at http://www.inece.org/conference/7/vol2/55_Killmer.pdf.

Richard Macrory, "Technology and Environmental Law Enforcement," in Ludwig Kramer (ed.), *Recht und um-welt: Essays in Honour of Professor Dr. Gerd Winter* (Europa Law Publishing 2003).

Kenneth J. Markowitz, "Legal Challenges and Market Rewards to the Use and Acceptance of Remote Sensing and Digital Information as Evidence," 12 *Duke Env'tl. L. & Pol'y F.* 219 (2003), available at <http://www.law.duke.edu/journals/delpf/articles/delpf12p219.htm>.

Scott South, *Environmental Monitoring: Guide to Selecting Wireless Communication Solutions* (2005), available at <http://www.environmental-expert.com/resulteacharticle4.asp?cid=7850&codi=3797>.

UNEP, *Analyzing Environmental Trends Using Satellite Data: Selected Cases* (UNEP 2005).

Designation of Responsibilities for Collecting, Reporting, and Analysing Data

[41] (a) (iii) *Designation of responsibilities to agencies for: Collection, reporting and analysis of data, including its qualitative and quantitative verification and provision of information about investigations;*

The collection, organisation, reporting, and analysis of environmental data are important responsibilities of the implementing agency. Qualitative and quantitative analysis of this data is vital for ensuring that violations of the law are identified, so such verification serves as an important element in environmental investigation and enforcement actions. Additionally, non-sensitive information can be provided to the public as a public participation tool (see Guidelines 41(a)(iv) and 41(j), below).



[41(a)(iv)]

[41(j)]

Approaches to Information Gathering

INECE has identified several ways to gather information:

Inventories: The enforcement programme can inventory the regulated community either by requiring them to complete informational forms, or by sending inspectors to individual facilities to gather information. One disadvantage of inventories is that they place a resource burden on the government agency and/or the regulated groups. They require personnel time and thus can strain operating budgets. Another difficulty with inventories is keeping the information current. This has proven difficult in some programmes. Government agencies will need to decide how often to survey the regulated groups. The need for information must be balanced with the cost of obtaining it. Laws can help ensure the quality of data by making it illegal to falsify data.

Permit or License Applications: Initial information can be obtained in conjunction with the permitting and licensing processes if the requirements make it illegal to operate without a permit or license.

Registration: In a registration process, facility managers are required to contact the environmental program to register particular information about their facility or product. The disadvantage of this process is that it may be more difficult to ensure that all appropriate facilities have registered. The degree of success in registering all appropriate facilities may depend, in part, on the consequences of not registering. Facilities will be more likely to register if there is a benefit for doing so (e.g., they get on a list for potential funding or contracts).

Existing Records: If the facilities have been regulated under a previous or existing program, records about their characteristics and compliance status may be available in programme files.

Other Sources: Other government agencies or ministries as well as industry sources may have information about the regulated community, e.g., sales tax receipts, lists or surveys compiled by trade associations.

Overflights: Aircraft overflights and/or resultant photographs may be used to inventory

facilities subject to environmental requirements. Overflights are also useful to detect facilities that may not have registered for a programme or filed required notifications, and to define the relative locations of wastewater discharges, air emissions, hazardous waste management facilities, water supply intakes, populated areas, etc. in specific geographic areas. (Source: INECE).

It is helpful to keep in mind that specific information collected and analysed to fulfill the obligations under one MEA might be relevant for other MEAs. For example, CBD-related information on inland waters, invasive alien species, or protected areas may be relevant to other MEAs, including the Ramsar Convention, CMS, and the World Heritage Convention. It can be more efficient and effective to have a single agency collect all of the related information (rather than having the information collected several times by different agencies in charge of the different MEAs). One agency could collect the information and make it available as a module, e.g. the inland water module that is then made available to the agencies and focal points in charge of different MEAs. Such an approach can also ease the process of reporting to the various MEAs.



MEKONG RIVER: SUB-REGIONAL ENVIRONMENTAL INFORMATION AND MONITORING SYSTEM

The Asian Development Bank (ADB) and UNEP, in collaboration with the Mekong River Commission, have implemented a Sub-regional Environmental Information and Monitoring System project to make environmental and natural resources data more easily available to national government agencies and regional organisations, and to allow such data to be quickly shared. (Source: ADB, UNEP and MRC, 1996).



RECORDING OF ENVIRONMENTAL VIOLATIONS IN THE GAMBIA

The Gambia has established a telephone hotline with a specific, dedicated number at the Inspectorate to record all complaints dealing with environmental issues. Inspectors and enforcement personnel on their routine inspections come across violations and instances of non-compliance with the laws. Violations include non-payment of fees due, failing to possess valid registration and licensing documents, sale of illegal chemicals, and cases of poisoning. This information is recorded in a database, which includes the date, description of incidence, name and address of violator, action taken, and action officer's name.

For more information, contact the NEA at nea@gamtel.gm



INDIAN GOVERNMENT ENVIRONMENTAL INFORMATION SYSTEM

At the national level, the Indian Government Environmental Information System Network has been set up to deal with the collection, collation, storage, analysis, exchange, and dissemination of environmental data and information. Realising the importance of Environmental Information, the Government of India established an Environmental Information System (ENVIS) in December of 1982.

Purpose: The focus of ENVIS since its inception has been on providing environmental information to decisionmakers, policy planners, scientists and engineers, research workers, and others all over India.

Participating institutions: ENVIS has developed itself with a network of participating institutions and organisations. A large number of nodes, known as ENVIS Centers, have been established in the network to cover the broad subject areas of environment with a Focal Point in the Ministry of Environment and Forests. Both the Focal Point and the ENVIS Centers have been assigned various responsibilities to achieve the Long-term and Short-term objectives of the programme.

Focal point: ENVIS is a decentralised system with a network of distributed subject oriented Centers ensuring integration of national efforts in environmental information collection, collation, storage, retrieval and dissemination of data to all concerned. Presently the ENVIS network consists of a Focal Point at the Ministry of Environment and Forest and ENVIS Centers setup in different organisations/establishments in the country in selected areas of environment.

Areas of the environment covered: Environmental Management, Air Pollution, Water Pollution, Noise Pollution, Ecology, Nature and Natural Resources Conservation, Health and Toxicology, Wastes, Forestry, Wildlife, Energy and Plants and Pollution.

Long-term objectives: To build up a repository and dissemination center in Environmental Science and Engineering; to gear up the modern technologies of acquisition, processing, storage, retrieval and dissemination of information of environmental nature; and to support and promote research, development and innovation in environmental information technology.

Short-term objectives: To provide national environmental information service relevant to present needs and capable of development to meet the future needs of the users, originators, processors and disseminators of information; to build up storage, retrieval, and dissemination capabilities with the ultimate objectives of disseminating information speedily to the users; to promote national and international cooperation and liaison for exchange of environment-related information; to promote, support, and assist education and personnel training programmes designed to enhance environmental information processing and utilisation capabilities; to promote exchange of information amongst developing countries.



PUBLIC DISCLOSURE OF CORPORATE ENVIRONMENTAL PERFORMANCE IN GHANA

In 2003, Ghana's Environmental Protection Authority (EPA) and the World Bank initiated a project to promote public disclosure of environmental performance of industries. Ultimately, the project will establish a process for publicly disclosing the performance of mining and manufacturing companies with respect to environmental standards and compliance with environmental laws in Ghana. The pilot phase focuses on surface mining and activities resulting in discharge of effluent and particulate matter to the environment.

At the beginning of the project, the industries and the Agency agreed upon the environmental standards to be assessed. The companies will be colour-rated from best to worst with Gold, Green, Blue, Pink, and Red from top to bottom. The rating will be made known to the public and is expected to enhance the image of participating companies at local and international level. This will also brighten their chances with financial institutions.

This project will be replicated in all of Ghana's manufacturing and mining industries after the pilot phase. It is expected that this approach will help Ghana to meet obligations of certain MEAs, including the CBD, UNFCCC, UNCCD, and the Basel Convention.

For more information, see <http://www.epaghana.org> or contact epaed@epaghana.org



USE OF AFFIDAVITS IN ARGENTINA'S WATER LAW

In Argentina, Executive Decrees No. 674/89 and 776/92 establish a regime governing industrial and/or special facilities that discharge pollution to water. [Industrial facilities are those establishments that manufacture goods (transforming raw materials into new products); while "special" facilities are those that clean or process goods (but do not transform raw materials).] These discharges may be continuous or periodic, and they may be to drains, conduits, or watercourses. This regime grants police powers to the Secretariat of Environment and Sustainable Development (SAyDS), which is an organ of the Ministry of Health and Environment, authorizing the Secretariat to control industrial water pollution and the quality of natural, surface, and ground waters.

In the exercise of its police powers, the SAyDS can take the necessary measures necessary to prevent the direct or indirect pollution of drinking water sources. The SAyDS is authorized to close the industrial or special facilities as necessary. It can also impose fines of 30,000 and 100,000 Pesos (approx. US\$10,000-33,000) on owners, suppliers, users, and natural or legal persons who violate the current or future

Use of Affidavits in Argentina's Water Law (cont'd)

obligations. In practice, the enterprises that are usually sanctioned for violations are laundries, automobile service stations, cold-storage facilities, and tanneries, among others.

Under these Decrees, industrial facilities are required to present to the SAyDS an affidavit (sworn declaration) once a year. This affidavit must indicate the type of effluent that was released, its volume, and the treatment (if any) of the effluent. Also, in order to initiate activities or to expand existing activities, facilities must obtain a conditional authorization for their spills and bring their effluents into compliance with the permissible limits. If a facility fails to present an affidavit, there are omissions in the affidavit, or the content of the affidavit is falsified, the SAyDS may impose a fine, and SAyDS can also initiate a criminal prosecution for falsification.

For more information on the applicable law and its control mechanisms, see <http://www.medioambiente.gov.ar/?idarticulo=127>. For more information on the affidavits, see <http://www.medioambiente.gov.ar/?aplicacion=tramites&idTramite=2&idSeccion=18>

For more information generally, contact Ms. Melina Garcia Luciani mluciani@medioambiente.gov.ar or Ms. Silvana Terzi sterzi@medioambiente.gov.ar



SELF-MONITORING REQUIRED BY U.S. ENVIRONMENTAL LAWS

In the United States, the implementation of pollution-control laws (which is managed at the federal level by the US Environmental Protection Agency, or USEPA) has been greatly facilitated because these laws extensively require that businesses and other regulated entities self-monitor, keep records, and report problems and violations to the Government. Policy reasons for requiring such self-monitoring include:

- Government resources for official inspections are scarce. Without self-monitoring, inspectors alone would catch only a small percentage of violators, and ignorance and non-compliance could be the norm.
- The legal duty to self-monitor creates self-knowledge from which come both the ability and a strong incentive to achieve compliance "voluntarily." Widespread compliance becomes the social norm, because the people closest to and in direct charge of their own pollution know soonest their problem and often best how to control it at the source.
- Self-monitoring means less government bureaucracy (including less official control and scrutiny). Wide-spread self-control of behavior brings more freedom from stressful entanglements with Government. This result is less costly to society and may be popular. Because usually there is no violation to be reported, the regulated entities may see their duty of self-monitoring as a modest burden at worst and perhaps even helpful.

Self-Monitoring Required by U.S. Environmental Laws (cont'd)

When self-monitoring does indicate a non-compliance event of significance that must be reported, USEPA enforcement-response policies elaborate what is the proportionate, consistent, and fair government response across the range of possible violations. (Internal USEPA documents have highly elaborated enforcement response policies (ERPs) not only for self-monitoring, but also more generally.)

For example, self-reporting of a routine exceedance (or spill) is handled administratively (non-criminally) and does not necessarily mean a penalty. The enforcement response may be only compliance assistance (no penalty) when one or more mitigating factors are present. Such mitigating factors can include the fact that the violator is a small business or small community, the exceedance occurs while facing new and complex requirements, and the facility is making its best (open and immediate) efforts yet still experiencing small or inadvertent violations. On the other hand, serious penalties may be appropriate when aggravating factors are present, such as when a large and sophisticated enterprise, while facing long-established and easily feasible requirements, does not make best efforts (there is evasion or delay), causes toxic, large, or easily avoidable exceedances, causes identifiable environmental damage, or has repeated offenses.

USEPA seeks to ensure a “level playing ground” to assure fair economic competition among all competitors in the sector facing the same pollution-control challenges. It also seeks to guarantee the integrity of government data, and economize scarce government resources so that they are applied only where needed. When self-monitoring and reporting is legally required but not conducted honestly, USEPA is very strict. Intentional tampering with a monitoring device, falsification, or failure to report are defined by law as offenses and are likely to be prosecuted criminally.

The above policy approaches apply only to legally required – but not voluntary – self-monitoring. Different government approaches, policy considerations, and incentives apply to encourage voluntary self-auditing and environmental management systems (EMS) that entail self-monitoring that exceeds (is beyond, broader, or deeper) than what is legally required. For the U.S. experiences in this respect, see “Environmental Self-Auditing in the United States,” following Guideline 41(h).



[41(h)]

For more information on self-monitoring and on enforcement response policies, see <http://www.epa.gov/compliance/resources/policies/index.html>



BRAZIL'S PARTICIPATORY PROCESS FOR GATHERING INFORMATION ON BIODIVERSITY

Article 7 of the Convention on Biological Diversity requires each Party to identify the components of biological diversity in that State that are important for conservation and sustainable use. In order to comply with these commitments, from 1997 to 2002, the Ministry of the Environment planned, supported, and coordinated a broad national consultative process that mobilized more than 1,000 specialists from public and private agencies to carry out an "Assessment of Priority Areas and Actions for the Conservation and Sustainable Use of Biodiversity in the Brazilian Biomes." This process included workshops for the Brazilian Amazon, the Cerrado and the Pantanal, the Caatinga, the Atlantic Forest, the Southern Fields, and the Marine and Coastal Zone.

To carry out this project, the MMA entered into agreements with consortia of academic institutions. The overall project was supported by resources from the Global Environment Facility (GEF). The methodology for the assessment involved the identification of priorities of different biological groups that were then superimposed and used to generate priority maps. The different areas were designated as being of extreme importance, very high, high, and insufficiently known area but with probable biological importance. Altogether, 900 areas were singled out. In 2004, a Presidential Decree (No. 5092 of May 21, 2004) and a directive acknowledged these areas and defined rules for their conservation and sustainable use.

These areas now guide the creation of new protected areas, development of projects for the conservation and sustainable use of biodiversity, and provide an important instrument in discussions with economic entities to minimize the impacts of infrastructure and energy on biodiversity.

For more information, see <http://www.mma.gov.br/port/sbf/index.cfm>, or contact maria-carolina.hazin@mma.gov.br or raquel.breda@mma.gov.br

Designation of Responsibilities for Public Awareness and Education

- [41]** (a) (iv) *Designation of responsibilities to agencies for: Awareness raising and publicity, in particular for the regulated community, and education for the general public;*

One of the most important activities that the implementing agency can engage in is awareness raising and publicity. Often, environmental laws are not purposefully violated, but violations instead are the result of ignorance on the part of the regulated community and the general public. Environmental awareness is also useful in building the credibility of the agency and its work as well as fostering support for, and generating creativity in the design of an enforcement programme.

Identifying the Regulated Community. The first step in ensuring that the regulated community is aware of the relevant laws and regulations is identifying which groups are regulated, and determining as far as possible their sophistication, ability, motivation, and willingness to comply. An accurate profile of the regulated community helps policymakers focus the compliance strategy (including both compliance promotion and enforcement response) to optimize its effectiveness. The process of profiling the regulated communities makes the regulated community aware of the requirements, aware that the enforcement program officials know whom they are, and aware that they will be expected to comply. This contact with the regulated community is the first step in creating a perception of an effective enforcement program. The regulated community may include:

- Corporations;
- Small businesses;
- Public agencies/government-owned facilities; and
- Individuals.

Information that can be useful in designing a compliance strategy includes:

- Identifying information, e.g. name of facility;
- Geographic location, e.g. longitude and latitude, street address;
- Type of business or operation;
- Any existing license, permit, or product registration numbers;
- Types and quantities of regulated materials or emissions at the facility; and
- Risk associated with releases (if this has been calculated).

For more information on education and public awareness, see the case studies, explanatory text, and other reference materials relating to Guidelines 30, 31, 41(m), and 44.



[30]

[31]

[41(m)]

[44]

Designation of Responsibilities for Providing Assistance to Courts and Tribunals

[41] (a) (v) *Designation of responsibilities to agencies for: Assistance to courts, tribunals and other related agencies, where appropriate, which may be supported by relevant information and data.*

Due to their complex and often technical nature, cases of environmental violation that come before courts and other judicial bodies (such as administrative tribunals) can pose a particular challenge. Moreover, the body of law in the area of the environment is growing so quickly in many States that these judicial bodies are faced with the daunting task of keeping abreast of laws that appear to be as fast-changing as they are technical and complex. Support to these bodies can greatly improve the effectiveness of environmental enforcement efforts.



[32]

[41(c)(vi)]

[41(i)]

[41(o)]

[43(c, d)]

[46]

[47]

In addition to the case studies below, additional discussion and examples relating to judicial matters may be found following Guidelines 32, 41(c)(vi), 41(i), 41(o), 43(c), 43(d), 46, and 47.



CAPACITY BUILDING FOR JUDICIAL OFFICERS AND PRACTITIONERS IN UGANDA

Since the introduction of environmental law in Uganda in the mid 1990s, various Ugandan institutions have held a variety of training activities to build capacity and awareness of environmental law and improve access to environmental justice. Awareness and training has been carried out in four general areas: (1) introduction to environmental law, (2) principles of environmental management, (3) procedural issues in environmental law, and (4) access to environmental justice.

In 1995, UNEP in collaboration with NEMA held two back-to-back Africa regional workshops in Kampala for lawyers from the Anglophone and Francophone countries, in which about 10 Ugandan lawyers were exposed to environmental litigation. Starting in 1997, Greenwatch (a Ugandan NGO) partnered with NEMA, the Environmental Law Institute (ELI), the World Resources Institute (WRI), and various institutions from Uganda and East Africa (including universities) to train judges, magistrates, private lawyers, state attorneys, and public interest lawyers on environmental law and litigation (including aspects of criminal environmental prosecution). Workshops typically trained 20-40 people at a time. One series of workshops focused on building capacity of the judiciary (including magistrates), while another targeted over 150 state attorneys and public prosecutors. As a result of the training courses, many judges and a growing number of magistrates are now well-versed in substantive and procedural matters related to environmental law.

Capacity Building for Judicial Officers and Practitioners in Uganda (cont'd)

Moreover, the public and private sector attorneys who prosecute environmental cases are better equipped to bring environmental cases before a judiciary that has the capacity to decide those cases.

In addition to building capacity, the training courses have yielded valuable materials. The course materials that have been developed, tested, and refined are in the process of being developed into a casebook on environmental law and a handbook on environmental law (see case study on “Uganda’s Casebook and Handbook on Environmental Law” following Guideline 43).

For more information, contact Mr. Kenneth Kakuru at kenneth@greenwatch.or.ug



COURT-APPOINTED EXPERTS IN CROATIA

Pursuant to The Law on Civil Procedure (OG No 53/91) and the Law on Criminal Procedure (OG 62/03), the Republic of Croatia provides that a court in hearing of evidence can consider the expert opinion of a court-appointed expert in cases for which the court does not possess the particular expert (technical, medical, etc.) non-legal knowledge regarding clarification of facts which are inevitable for rendering judgment. Such experts may be used in environmental cases, for example for determining factual causation or impact. The judge, however, remains the sole authority on interpreting or clarifying the law.

For more information, contact Ms. Nataša Kačić-Bartulović at natasa.kacic-bartulovic@mzopu.hr.



FEDERAL SENTENCING GUIDELINES IN THE UNITED STATES

In 1984, the United States established the U.S. Sentencing Commission to develop sentencing guidelines for judges to apply in federal cases. The Federal Sentencing Guidelines incorporate the goals of sentencing (just punishment, deterrence, incapacitation, and rehabilitation); seek to provide certainty and fairness in issuing sentences, while permitting sufficient judicial flexibility to account for mitigating and aggravating factors; and reflect developments in the understanding of human behavior. Typically, the Guidelines provide a specific range of penalties (e.g., a fine between \$X and \$Y) for each offense. Part Q of the Guidelines addresses offenses involving the environment, conservation, and wildlife.

Although initially considered to be mandatory, the United States Sentencing Guidelines recently have been interpreted by the Supreme Court as being discretionary; however, trial courts are required to take them into account during sentencing.

For more information, see <http://www.ussc.gov> (which includes the Guidelines and related information).



UNEP's JUDGES PROGRAMME

UNEP has developed an active Judges Programme to build capacity of judges, magistrates, and other judicial officers to effectively decide cases relating to environmental law. Such capacity building is essential to the effective enforcement of environmental laws.

Starting in 1996, UNEP convened a series of regional judges symposia, which brought together chief justices and prosecutors from various States within each region to:

- examine developments in the field of national and international environmental law;
- exchange views, knowledge, and experience in promoting the further development and implementation of environmental law in each region; and
- review the role of the courts in promoting the rule of law in the area of sustainable development, including an examination of important judgments.

In 2001, UNEP's 10-year Programme for the Development and Periodic Review of Environmental Law explicitly requested UNEP to undertake capacity building efforts targeted at "the judiciary [and] the legal profession".

With this mandate and building upon the six successful regional symposia, UNEP organized and co-sponsored the Global Judges Symposium on Sustainable Development and the Role of Law, which was held in Johannesburg in 2002, immediately preceding the World Summit on Sustainable Development (WSSD). 122 chief justices and senior judges from 60 States were invited to participate. The Global Judges Symposium discussed the role of the judiciary in the implementation of environmental law (including Principle 10 of the Rio Declaration addressing access to information, public participation, and access to justice), reviewed emerging environmental law jurisprudence, and identified specific needs for capacity strengthening at the national level. The Symposium adopted the Johannesburg Principles on the Role of Law and Sustainable Development, which call for the improvement of the capacity of judges, prosecutors, and other legal officers.

Following the Global Judges Symposium, UNEP convened a meeting in January 2003 to develop a plan for building judicial capacity around the world. The subsequent Regional Chief Justices Needs-Assessment and Planning Meetings have drawn up

UNEP's Judges Programme (cont'd)

country-specific national programmes of work for strengthening judicial capacity in the area of environment and sustainable development, taking into account the different needs and context of each State, including varying legal systems, regulatory frameworks, economic situations, cultures, and histories.

Based on the outcomes of these regional assessments, UNEP has identified judicial sensitization and capacity building at the national level as the most crucial step. To address this need, UNEP has developed a "Train-the-Trainers Programme" that can be used to train legal stakeholders at a sub-regional level so that they can subsequently build capacity and sensitize the judiciary on environmental issues at national level. UNEP has also convened a number of national-level seminars to build judicial capacity.

In addition, UNEP is developing a series of environmental law training materials, to be translated into the six official languages of the UN. These materials include an Environmental Law Training Manual giving an introduction to contemporary environmental law, a Judges' Handbook on Environmental Law, and selected collections of international and national environmental legislation and judicial cases from around the world. For instance, in African States, UNEP has developed, as part of the Partnership for the Development of Environmental Law and Institutions in Africa (PADELIA), 11 volumes of a Compendia of Environmental Laws, as well as 4 volumes of a Compendia of Judicial Decisions on Matters Related to the Environment (available at <http://www.unep.org/padelia/publications/publication.htm>). All of these documents aim at providing detailed reference materials on environmental law to judges, prosecutors, and other stakeholders such as private advocates, universities, and NGOs.

At the WSSD, UNEP and IUCN-The World Conservation Union announced the creation of an on-line Judicial Portal, through which judges could upload and access the texts of relevant environmental decisions and exchange other relevant information. Available at <http://www.iucn.org/portal/elc/>, the portal is for the moment only accessible to a restricted network of judges and members of IUCN's Commission on Environmental Law.

For more information on UNEP's Judges Programme, see

http://www.unep.org/DPDL/Law/Programme_work/Judges_programme/index.asp
or contact envlaw@unep.org

For information on judicial capacity-building in the PADELIA framework, see

<http://www.unep.org/padelia> or contact padelia.africa@unep.org



SPECIALISED ENVIRONMENTAL ADMINISTRATIVE TRIBUNALS AND PROSECUTORS IN THE UNITED STATES

In the United States, it has been necessary to establish specialised environmental trial attorneys and prosecutors, and specialised environmental administrative tribunals, to handle different types of violations of environmental laws. Both measures have contributed significantly to achieving results that are in accordance with law and fair (correct, proportionate, and consistent) in the most complex and serious environmental cases that are handled at the national level throughout a vast and diverse nation. For pollution control, the U.S. Environmental Protection Agency (USEPA) encourages and supports the 50 State Governments to adopt the same measures. Many States have done so within the parallel State court and administrative systems where most (many more than half of all) environmental violations are handled.

The U.S. national court system handles all criminal cases and those civil enforcement cases – generally the biggest and most complex – that are not handled administratively or by States. To assist the national judges, who are generalists considering every type of case, it has been necessary for the U.S. Government to develop specialised units of trial attorneys who are experts in environmental offenses, both criminal and civil. Located within the U.S. Department of Justice (DOJ), these environmental trial attorneys have proven highly effective. They receive cases investigated by EPA inspectors and police, and then assist national prosecutors located in district offices throughout the United States to present and prosecute the cases, which are often highly technical. These trials are before judges, and often are also before juries. The DOJ environmental attorneys travel as necessary to be present personally in court in most cases. When appeals are taken from decisions reached in trials, DOJ's specialised environmental attorneys are involved at the higher, appellate levels in the judicial process where they argue.

Most (about 85 percent of all) violations of national pollution-control requirements in the United States are not handled in the national court system, but are resolved before administrative courts. In the U.S. experience, it has proven quick and efficient in most instances to avoid over-reliance on the crowded national courts, with have more elaborate procedures. Accordingly, USEPA has developed a core of Administrative Law Judges (ALJs), specialised experts in environmental law, who have proven highly effective. They handle most pollution-control offenses, including those that can be resolved by the assessment of administrative civil penalties (which can be very large), permit suspension or revocation, and some other forms of limited relief. Specialised USEPA attorneys present these often highly technical cases to such specialised judges in administrative trials throughout the country, and when necessary to an administrative Environmental Appeals Board (EAB). If the defendant contests the decision of the EAB, the defendant may appeal to a national court.

Administrative courts cannot impose criminal penalties or the full range of orders available to a judge in the national court system. When USEPA enforcement

Specialised Environmental Administrative Tribunals and Prosecutors in the United States (cont'd)

authorities determine that administrative courts are — or are likely to be — inappropriate or ineffective, the case is referred to DOJ's environmental trial attorneys for resolution in the national court system.

Other U.S. agencies that enforce natural resource laws have their own administrative processes and administrative law judges.

For more information on DOJ's environmental attorneys, see <http://www.usdoj.gov/enrd/>.

For more information on USEPA's administrative law judges and environmental appeals board, see <http://www.epa.gov/oalj/> and <http://www.epa.gov/eab/>, respectively. See also the case study on "Vertical Designation of Enforcement Responsibilities for Enforcing Pollution-Control Laws in the United States" following Guideline 41(a)(i).



[41(a)(i)]



EU FORUM OF JUDGES FOR THE ENVIRONMENT

The EU Forum of Judges for the Environment (EUFJE) was established in 2004. It provides an opportunity for discussion and exchange of information among EU Member States' judges interested in environmental law. The organization's purpose is to promote and contribute to a better implementation and enforcement of national, European, and international environmental law by facilitating sharing of experience with environmental case law and on relevant judicial training, as well as by fostering knowledge of environmental law among judges.

EUFJE holds annual conferences dedicated to particular areas of environmental law. The first such conference, held in the Hague in December 2004, focused on the Aarhus Convention. The next conference dealt with issues of waste law. The next conference, to be held in Helsinki in September 2006, will address issues related to Natura 2000 areas.

EUFJE carried out a survey of its members regarding their national legal systems, organization of the judiciary, and training and information available to judges. The survey's results are available on EUFJE's website.

For more information, see <http://www.eufje.org>



CAMEROON'S EFFORTS TO STRENGTHEN THE CAPACITY OF MAGISTRATES AND OTHER LEGAL OFFICERS

In partnership with various development actors and NGOs, the Government of Cameroon has undertaken to strengthen the capacity of Magistrates, State Councils, and other legal officers to enforce MEAs. Activities include training seminars and workshops, as well as awareness-raising programmes for these officials on the application of MEAs.

Recent initiatives have been carried out in collaboration with WWF. Through this collaboration, sensitisation seminars have been held in some provincial headquarters to train magistrates on issues relating to wild flora and fauna conservation and the protection of species threatened with extinction (especially pursuant to CITES). Similarly, the National Hydrocarbons Corporation (SNH) has collaborated with the World Bank and the Ministry of Justice to carry out capacity building programmes for magistrates on environmental law.

For more information, contact Peter Enoh enohpeter@yahoo.fr or Mary Fosi mary_fosi@hotmail.com

CHECKLIST FOR ASSISTANCE TO COURTS

States can assist courts, tribunals, and other related institutions through a variety of general and specific measures. Some of the general, institutional measures include:

- Making sure that the general workload of the judiciary is manageable (and that the judges are not asked to deal with more cases than they have capacity to address, regardless of whether the cases relate to the environment);
- Ensuring that the lawyers, judges have a general understanding of the importance of environmental issues;
- Providing the necessary reference materials and information to the judges; and
- Maintaining statistics on environmental cases.

In addition, specific forms of assistance can include:

- Compendia of relevant national and sub-national laws, regulations, and guidelines, as well as MEAs to which the State is a Party;
- Casebooks and reports that include the full text of environmental cases (ideally with some form of annotation and indexing that makes it easier to find the relevant cases);
- Casebooks and reports that include cases from around the world (such as the UNEP compendia, described in the case study on "UNEP's Judges Programme" above);
- Training on environmental law, regulations, and policy (including both the substantive law as well as procedural aspects such as evidence, locus standi, and remedies);
- Use of court-appointed experts to assist the judge in resolving complex litigation questions (such as causation and extent of harm); and
- Guidelines, toolkits, and other references for judges involved in environmental matters. These may be developed by governmental agencies, by universities, or by MEA Secretariats. For example, Belize and Guyana have developed sentencing guidelines for environmental cases, and CITES is developing a kit for the judiciary; see also the case study on "Federal Sentencing Guidelines in the United States" above. See also UNEP, *Judicial Handbook on Environmental Law (2005)*.

Institutional Frameworks to Control Import and Export

[41] (b) *Control of the import and export of substances and endangered species, including the tracking of shipments, inspection and other enforcement activities at border crossings, ports and other areas of known or suspected illegal activity;*

An effective way to enhance enforcement of environmental laws is by closely monitoring trade. Many of the most egregious cases of non-compliance with environmental law involve illegal trade in restricted substances or endangered species (See discussion of “international environmental crime” following Guideline 38, above).



[33(f)]
[38]
[42(c)]
[48(d, e)]

In addition to the case studies below, Guidelines 33(f), 42(c), and 48(d) and (e) include examples of initiatives and approaches designed to strengthen customs agencies and other institutions involved in controlling import and export.



Environmental Investigation Agency

Tiger teeth on sale in a pharmacy, Taiwan.

CH II - D



A SURVEY OF SOME NATIONAL AND REGIONAL EFFORTS TO CONTROL ILLEGAL TRADE

Kenya

The Kenya Wildlife Service’s functions include almost all aspects of national park management, cooperative wildlife management, research, tourism and infrastructure. The Service coordinates a 24-hour operations room, a host of specialist units, a paid informer pool, and a network of honorary wardens to gather intelligence, and a highly motivated staff, all of which work together to enforce restrictions on wildlife product trade, such as trade in illegal ivory. Their work within the borders of the State ensures that illegally obtained wildlife products are detected and confiscated (and those responsible prosecuted) before the products can be exported.

A Survey of Some National and Regional Efforts to Control Illegal Trade (cont'd)

South Africa

Special Enforcement Units within South Africa have had a positive record in gathering intelligence, performing market surveillance, pursuing allegations of corruption, and prosecuting complex corporate investigations. One example of this is South Africa's Endangered Species Enforcement Unit. The Unit was founded by experienced officers from the rangeland crime division who were familiar with the need to penetrate networks, go undercover, gather intelligence, and conduct sting operations.

South East Asia and Pacific (SEAP) Network

Monitoring and controls on imports and exports of Ozone Depleting Substances (ODS) is crucial in any ODS regime. In the SEAP Network there was an interesting transfer of ideas and systems combining experience from Australia, New Zealand, Sweden, Malaysia, Thailand, Singapore, and the Philippines.

At the 1994 SEAP Network Meeting, the participants concluded that it would be useful to collect the combined experience of the network countries that had some type of import/export control system (Australia, New Zealand, Sweden, Malaysia, Thailand, Singapore, and the Philippines). In all these States, the legislation had both good features and certain areas for improvement a comparative analysis of which could serve as a basis for developing a functional import/export control system. As requested by the network, UNEP agreed to approach the Multilateral Fund to publish this collective experience.

The resulting publication, *Monitoring Imports of Ozone-Depleting Substances – A Guidebook*, among other things suggested that an import/export licensing system should contain direct reporting requirements so that more reliable import/export data can be collected. UNEP found the publication to be of wider interest than just for the SEAP Network and decided to distribute it worldwide. As proposed by Poland, it was also recommended by the 1997 Meeting of the Parties to the Montreal Protocol for use by States that sought more information on these issues. The same Meeting decided that all Parties should introduce import/export licensing systems to control ODS trade (Montreal Amendment).

The collective experience of the SEAP Network was used in 1997 as a basis for a UNEP workshop in Uganda for English-speaking Africa to develop a model on import/export controls, and for the development of UNEP resource manual on establishment import/export licensing systems. This latter publication is now being used by States around the world, including States within SEAP (the latest example being Brunei Darussalam).

The SEAP Network has then gone one step further by organising a joint workshop for ozone and customs officers in Jomtien, Thailand. This workshop has in turn resulted in initiating regional co-operation between NGOs and customs agencies, through workshops held back-to-back with SEAP network meetings.

A Survey of Some National and Regional Efforts to Control Illegal Trade (cont'd)

The SEAP experience demonstrated that Networks can be very successful in transferring knowledge among government officers in developed and developing countries.

Copies of the Guidebook are available from the OzonAction Programme at ozonaction@unep.fr A Survey of Some National and Regional Efforts to Control Illegal Trade



A DESKBOOK FOR CUSTOMS OFFICERS ON OZONE DEPLETING SUBSTANCES

Several States have cooperated with UNEP to design a handbook for customs officers that assist in the regulation of ozone depleting substances. The book includes information on:

- Health and environmental effects of ozone depletion
- Customs officers' role in regulating illegal traffic of ozone depleting substances
- Applicable laws and regulations that pertain to ozone depleting substances
- Background on the national regulations regarding ozone depleting substances
- Common smuggling schemes
- Identification tips, lists, pictures of ozone depleting substances and containers
- Screening checklist to use when monitoring imports and exports of chemicals



The Deskbook is available at http://www.unep.fr/ozonaction/library/mmc/lib_detail.asp?r=3164



CITES CAPACITY BUILDING FOR CUSTOMS OFFICERS IN GEORGIA

To build capacity of customs officers in Georgia to identify and interdict illegal trade in CITES-listed species, the Government developed a special CITES handbook in the Georgian language. This handbook contains all species of wild fauna and flora that are found in Georgia and listed in the CITES appendices. For each species, there is a photo and a brief description. The Government also conducted a seminar for customs officials to raise their awareness on CITES issues, as well as the general importance of protecting wild fauna and flora.

For more information, contact m_tsereteli@yahoo.com or biodepcites@moe.gov.ge



RISK ASSESSMENT FOR IMPORTING LMOs (UNDER THE CARTAGENA PROTOCOL ON BIOSAFETY)

The Biosafety Protocol requires Parties to make decisions on import of Living Modified Organisms (LMOs) for intentional introduction into the environment in accordance with scientifically sound risk assessments (Article 15). Annex III of the Protocol sets out general principles, methodological steps, and points to consider in the conduct of risk assessment. The general principles include, among others, the following concepts:

- Risk assessment should be carried out in a scientifically sound and transparent manner;
- Lack of scientific knowledge or scientific consensus should not necessarily be interpreted as indicating a particular level of risk, an absence of risk, or an acceptable risk;
- Risks should be considered in the context of risks posed by the non-modified recipients or parental organisms; and
- Risks should be assessed on a case-by-base basis.

The methodology described in Annex III of the Protocol follows a conventional risk assessment paradigm, beginning with identification of a potential hazard, such as characteristics of an LMO, which may have an adverse effect on biodiversity. Risks are then characterized based on combined evaluation of the likelihood of adverse effects and the consequences should those effects be realized.

For more information, see <http://www.biodiv.org> (especially <http://www.biodiv.org/biosafety/issues/risk.aspx>) or contact secretariat@biodiv.org



Additional Resources On Import/export Legislation And Institutions

ODS Import/Export Licensing Systems Resource Module: Phasing out ODS in Developing Countries (1998) (in English, French, and Spanish) available at http://www.unep.fr/ozonaction/library/mmc/lib_detail.asp?r=2721 (step-by-step guidance for designing and implementing ODS import/export licensing systems).

See also the text, case studies, and other resources following Guideline 42(c) on "Coordination with Licensing Bodies for Import and Export".

CHECKLIST OF OPTIONS FOR IMPORT AND EXPORT CONTROL

There are a variety of means available to deter and prevent illegal import and export, including:

- Compiling records on importers and exporters of banned/controlled substances and species at the country levels;
- Integrating this data with actionable intelligence and enforcement actions to get a profile of contraband, trafficking methods, and likely countries of origin;
- Obtaining statistics of seizures and confiscations from enforcement interventions, analyse this, and feed the results into the system to adjust profiles;
- Collating and disseminating national intelligence on environmental crimes more effectively to allow for coordinated enforcement actions between jurisdictions;
- Placing greater focus on international trafficking routes;
- Creating partnerships with established NGOs can prove effective in monitoring and surveillance activities; for example, NGOs such as the Environmental Investigation Agency provide extensive research into trade routes of particular kinds of environmental contraband. TRAFFIC, which is a joint wildlife monitoring programme of IUCN and WWF, is the most developed attempt to provide sustained non-governmental support and intelligence, and it acts as an occasional independent monitor, clearing house, and international research organisation for information on wildlife trade and some fisheries and forestry issues. [CITES Notification to the Parties No. 2004/078 of 9 December 2004 provides guidance for submission of enforcement information by the public and NGOs.];
- Adopting simple mechanisms such as Interpol's "Eco-message" form of reporting or soliciting information on environmental violations involving transboundary collaboration. Eco-message forms in due course will provide information on global trafficking patterns for more detailed risk assessment and enforcement targeting;
- Targeting international enforcement efforts at weak points in the commodity chain, particularly for exhaustible commodities such as endangered species, timber, and fish, where stock protection is paramount; and
- Development of task forces and other means to ensure coordination among relevant agencies and among national and sub-national authorities (including state/provincial and local authorities, as appropriate). For example, in the United States, the US Department of Justice, Environmental Protection Agency, and other federal, state, and international agencies operated an "ODS Task Force" which met regularly to exchange information and discuss targeted enforcement related to ozone-depleting substances; this task force led to very successful results. These task forces can also be bilateral, sub-regional, or regional to facilitate communication and cooperation, as illustrated in Guideline 48 and accompanying text.

Clear Authority for Enforcement Bodies

- [41]** (c) *Clear authority for enforcement agencies and others involved in enforcement activities to:*
- (i) *Obtain information on relevant aspects of implementation;*
 - (ii) *Have access to relevant facilities including ports and border crossings;*
 - (iii) *Monitor and verify compliance with national laws and regulations;*
 - (iv) *Order action to prevent and remedy environmental law violations;*
 - (v) *Coordinate with other agencies;*
 - (vi) *Impose sanctions including penalties for environmental law violations and non-compliance.*

Without a mandate to take actions necessary to enforce the laws they are charged with upholding, enforcement agencies are powerless to ensure compliance with the laws. Laws and regulations delegating authority to enforcement agencies and related bodies should clearly provide that these entities may undertake the necessary actions such as having access to the relevant facilities and imposing sanctions.

Response mechanisms imposed by enforcement authorities are designed to achieve one or more of the following:

- Return violators to compliance;
- Impose a sanction;
- Remove the economic benefit of non-compliance;
- Require that specific action be taken to test, monitor or provide information;
- Correct environmental damages; and
- Correct internal company management problems.

(Source: INECE).

Response mechanisms can either be formal (for example, civil, criminal or administrative judicial enforcement) or informal (for example, telephone calls, inspection, warning letters or notice of violation). The type of “authority” determines the “response” the enforcement agency/official sets in motion to elicit compliance with the law.

States can develop legal authorities and response mechanisms that address the specific environmental issue or media being regulated. For example, this may be the authority to inspect hazardous waste sites and authority to issue penalties for violations of hazardous waste regulations. Such authorities may provide for administrative, civil, and/or criminal sanctions. At the same time, States could also make use of more general statutory authority and sanctions that might be implicated in an environmental violation – for example, general fraud and misrepresentation statutes, or tax and customs regulations for illegal trade – as these can bolster the environmental authority.



Indonesian customs officers inspect a seizure of smuggled CFC cylinders produced in China, Tanjung Priok port, Jakarta, Indonesia, 2004



[32]

[41(a)(v)]

[41(i)]

[41(o)]

[43(c)]

[43(d)]

[46]

[47]

In addition to the case studies below, additional discussion and examples relating to judicial matters may be found following Guidelines 32, 41(a)(v), 41(i), 41(o), 43(c), 43(d), 46, and 47.

Considerations in the Hiring, Functioning, and Development of Inspectors

There are a number of ways to promote the integrity and professionalism of inspectors and other enforcement personnel, and ultimately the capacity of inspectors to conduct their duties effectively. These include legal and management measures that seek to:

- Ensure that staff are qualified to perform the necessary functions of their jobs. This can be done by establishing hiring criteria that set standards for academic qualifications, personal attributes, and general suitability (e.g., various aptitudes and psychometric profile, if appropriate);
- Protect the jobs of staff if they make politically unpopular decisions (for example by providing civil service protections for employees);
- Provide for adequate incentives, social protection, and compensation (so that inspectors are not as susceptible to bribes or other forms of corruption);
- Provide bonuses and other types of remuneration for exceptional performance;
- Establish objective criteria for staff promotion, as well as hiring and review;
- Ensure that newly hired staff have introductory training so that they understand their professional roles, the limits of their responsibilities and powers, and the basic application of their professional skills to environmental enforcement. This initial training can consist of formal courses, self-learning, and practical experience gained on-the-job particularly under supervision by a senior member of staff; and
- Provide opportunities for ongoing professional development and training

(including cross-sectoral and management training). Training courses, guidance manuals, and networking are standard approaches and are well worth pursuing. Training should be assessed to check the effectiveness of the delivery mechanism and to determine whether it has been beneficial to the person and the organisation.

As noted, these measures may be set through laws, regulations, or institutional hiring policies and employment manuals — and often are done through a combination of such approaches. For more information, see Principle 20 of the OECD’s “Guiding Principles for Reform of Environmental Enforcement Authorities in EECCA” (<http://www.oecd.org/dataoecd/36/51/26756552.pdf>) or the OECD Policy Brief “Public Service as an Employer of Choice” (<http://www.oecd.org/dataoecd/37/0/1937348.pdf>). Also see the IMPEL Report on Best Practices concerning Training and Qualification for Environmental Inspectors (http://europa.eu.int/comm/environment/impel/pdf/env_inspectors_finreport.pdf).



INSPECTION POWERS IN THE GAMBIA

The Hazardous Chemicals and Pesticides Control and Management Act provides that inspectors have broad powers to investigate potential violations of laws governing pesticides and other hazardous chemicals. Under this Act, any “inspector may, in the performance of his duties . . . at all reasonable times without [a] warrant enter on any land, premises or vehicle, where a chemical or pesticide is or may be reasonably suspected to be manufactured, stored, sold, distributed or used to determine whether the provisions of this Act are being complied with.” Moreover, the “inspector can also take samples of any article and substances under this Act and submit them for analyses.”

For more information, contact Dr. Henry Carrol at nea@gamtel.gm or Mrs. Fatoumata Jallow Ndoeye at fjndoye@qanet.gm



STRENGTHENING ENVIRONMENTAL INSPECTORATES IN BALKAN COUNTRIES

In 2002 and 2003, the Regional Environmental Centre (REC) for Central and Eastern Europe undertook a project to strengthen environmental enforcement agencies and inspectorates in Southeastern Europe. This was undertaken in the context of the Balkan Environmental Regulatory Compliance and Enforcement Network (BERCEN). The project brought together the environmental inspectors of BERCEN and IMPEL countries to exchange experiences related to environmental enforcement and regulatory compliance. The project also facilitated bilateral cooperation among regional enforcement agencies and beyond.

For more information, see <http://www.rec.org> or contact Ms. Kristiina Soone ksoone@rec.org or Mr. Mihail Dimovski mdimovski@rec.org



ENVIRONMENTAL INSPECTIONS IN SLOVENIA

In Slovenia, environmental inspectors have the mandate to inspect facilities to verify the compliance status with respect to legislation, regulations, monitoring reports, and permit requirements. Regulated facilities must report emissions and releases to the air, water, and soil, as well as noise and non-ionic radiation, depending on the permit for the particular facility. Some companies are also authorized to conduct on-site self-monitoring. Under the polluter-pays principle, in Slovenia all expenses related to monitoring are paid by the polluters.

There are more than 50 environmental inspectors in Slovenia. The vast majority of the inspectors have advanced university degrees (e.g., in chemistry, biology, agriculture, geology, engineering, safety, etc.), and all inspectors have to complete training programmes and pass a national professional examination. Once hired, inspectors tend to develop expertise in particular issues or areas.

The annual work plan for the Inspectorate for the Environment and Spatial Planning considers three essential indicators: (1) total number of inspectors, (2) total number of regular inspections carried out, and (3) total number of extraordinary inspections carried out. Considering the available staff, the regulated community, and perceived difficulties, the annual work plan sets forth a target for a certain number of inspections for each issue: air quality, waste management, water protection, nature protection, chemicals and genetically modified organisms, industrial pollution control, noise, and electromagnetic radiation. These inspections are then allocated by region to provide targets for each office.

Inspections to particular sites may be planned or unannounced. If the inspector observes any violations, the inspector issues a written order indicating what the facility must do to return to compliance. The inspector can suggest that the Ministry issue a remediation order requiring the facility to prepare and undertake necessary remedial actions. Depending on the nature of the violation (severity of harm, wilfulness, etc.), the inspector can impose a penalty directly or initiate legal proceedings against the facility and the responsible person. For serious violations, the company and the responsible person can be subject to criminal prosecution. For any violation, the inspector can close the facility and/or order the facility to cease using specific substances, equipment, processes, means of transportation, or other measure to help bring the facility back into compliance.

As noted above, inspections may be announced or unannounced, planned or ad hoc, and addressing a single media or multi-media. Typically, large facilities are inspected once a year, and small facilities are inspected once every two years. Inspections may also be carried out in response to a complaint from a third party.

To improve the efficiency of follow-up and enforcement actions, the Inspectorate is developing an environmental information system. This system will provide a database for tracking reporting, inspecting and monitoring facilities, and guiding the workplan. It also is expected to provide a database for further legislative development in the area.

For more information, contact Boris Žbona (tel: +386-65-28011; fax: +386-65-29628).

CHECKLIST FOR TYPES OF ENFORCEMENT AUTHORITY*

Following is a list of types of enforcement authority, which may be applied through administrative, civil, or criminal measures. This list is illustrative, and it is neither exclusive nor exhaustive.

Remedial Actions

- Authority to impose a schedule for compliance
- Authority to permanently shutdown part of an operation
- Authority to temporarily shut down certain parts of operations or practices
- Authority to permanently shut down an entire facility
- Authority to temporarily shut down an entire facility
- Authority to deny a permit
- Authority to revoke a permit
- Authority to require a facility to clean up part of the environment
- Emergency powers to enter and correct immediate dangers to the local population or environment
- Authority to seek compensation for damage caused by the violation

Other

- Authority to require specific testing and reporting
- Authority to impose specific labeling requirements
- Authority to require monitoring and reporting
- Authority to request information on industrial processes
- Authority to require specialised training (e.g. in emergency response to spills) for facility employees
- Authority to require a facility to undergo an environmental audit

Sanctions

- Authority to impose a monetary penalty with specified amounts per day per violation
- Authority to seek imprisonment (a jail term)
- Authority to seek punitive damages or fines within specified limits
- Authority to seize property
- Authority to seek reimbursement for government clean-up expenses
- Authority to bar a facility or company from government loans, guarantees, or contracts
- Authority to require service or community work to benefit the environment

For more information on sanctions, see discussion following Guideline 40(c).

* This list of enforcement authorities is a hybrid and does not appear in any one law or State. It is an example of types of authorities that may be made available to enforcement officials through environmental laws. These authorities may be either direct authorities or the authority to seek a court order to impose the sanction. (Source: INECE)

Fairness and Consistency in Enforcement Processes

- [41]** (d) *Policies and procedures that ensure fair and consistent enforcement and imposition of penalties based on established criteria and sentencing guidelines that, for example, credibly reflect the relative severity of harm, history of non-compliance or environmental law violations, remedial costs and illegal profits;*

Where civil or criminal enforcement may lead to penalties, imposition of such penalties should be based on well-established criteria and guidelines (such as sentencing guidelines). These mechanisms bolster public confidence in enforcement procedures and preserve their integrity. Criteria and guidelines that determine penalties should reflect:

1. The relative severity of the harm;
2. History of non-compliance or environmental law violations; and
3. Remedial costs or illegal profits.

Each State has its own unique legal system, laws, and culture, but common to most democratic institutions are processes to balance the rights of individuals with the government's need to act swiftly to protect the public's interest in an overall safe and healthy environment. Some States have put in place sentencing guidelines to secure this "fairness and consistency" in enforcement process for violations of environmental laws and regulations. Canada, for instance, has developed creative sentencing provisions to introduce other remedies and sanctions (such as community service and required environmental audits).

Inadequate regulatory framework and low rates of statutory prescribed penalties can greatly interfere with effective enforcement. Moreover, statutorily prescribed penalties that were once adequate may have been rendered far less effective as a result of inflation or an increase in the value of any illegal markets. Ensuring consistent and adequate financial penalties for environmental violations (and making sure they are adjusted for such factors as fluctuations in currency) can greatly improve the strength of a State's enforcement.

Guidelines and Manuals to Promote Fair and Effective Enforcement

Enforcement programmes involve a variety of underlying policies and approaches to address the numerous types of violations and contexts for violation. For example, in the Netherlands, all environmental inspectorates responsible for enforcing environmental regulations at the national, provisional, and local levels have committed to following "Minimum Criteria for a Professional Environmental Enforcement Process in the Netherlands." Such policies are important to ensure fairness, a particularly important factor in assessing monetary penalties. The perception and fact of fairness can be critical to the credibility of an enforcement program. Written, publicly available policies can help enforcement staff to act with integrity and proportionality to make what are often difficult decisions to demonstrate government will and resolve to enforce environmental laws. Key issues to consider when drafting an enforcement policy are discussed below.

In addition to the case studies below, see the case studies on “Self-Monitoring Required by U.S. Environmental Laws” following Guideline 41(a)(iii) (describing U.S. enforcement response policies) and on “Federal Sentencing Guidelines in the United States” and “Specialised Environmental Administrative Tribunals and Prosecutors in the United States” following Guideline 41(a)(v). In addition, the case study on “Setting Appropriate Administrative and Civil Monetary Penalties in the United States” following Guideline 40(c) is worth reviewing because having written penalty policies and an effective decisionmaking process to implement them is essential to achieving fairness and consistency in the enforcement process. Guideline 40(c) and the accompanying text also set forth a range of penalties that may be considered.



[40(c)]

[41(a)(iii)]

[41(a)(v)]



GUIDELINES FOR PROSECUTING AND HEARING ENVIRONMENTAL CASES IN UGANDA

Uganda’s National Environmental Management Authority coordinated the development of guidelines for prosecuting and deciding environmental cases. These guidelines:

- establish standard criteria for determining when and how to undertake criminal investigations and prosecutions for environmental violations;
- articulate the applicability of criminal principles to environmental protection;
- reiterate the liability of corporate offenders and how they should be addressed;
- clarify the liability or immunity of government agencies and local governments in criminal prosecutions for environmental violations;
- review evidential difficulties involved in prosecuting environmental offenders; and
- set forth practical considerations in gathering and adducing evidence in environmental cases (including guidance on sampling, testing, storing, and interpreting evidence for the various environmental sectors).

In January 2006, the draft guidelines were reviewed at a consultative workshop involving stakeholders. The various stakeholders were of the view that their specific sectors – wildlife, wetlands, forestry, and water – should be given due consideration in the guidelines. The views of these sectors are being incorporated by the consultant before the guidelines are finalized, published, and disseminated to police, prosecutors, and judicial officers.

Special rules for courts deciding environmental cases are being developed to enable quicker and easier access to environmental justice. When developed, they will operate like other special rules that deviate from the standard court rules of procedure.

For more information, contact Ms. Christine Akello at cakello@nemaug.org or info@nemaug.org



REFERENCES TO PROMOTE ENVIRONMENTAL ENFORCEMENT IN BELARUS

With funding from the World Bank, Belarus prepared and published a manual and guidelines to promote environmental inspection and enforcement. The manual was prepared by EcoPravo, a national NGO. Lawyers at EcoPravo reviewed the complicated body of Belarus's environmental legislation and prepared a set of guidelines as a toolkit for inspectors. In 2003, a 280-page manual (with 1500 provisions) was published, and it is now used by environmental inspectors in their day-to-day work.

The manual includes many laws and regulations that implement various MEAs, such as the Convention on Migratory Species (CMS), the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the Convention on Biological Diversity (CBD), the Basel Convention, the Aarhus Convention, and the Vienna Convention and Montreal Protocol.

In the process of reviewing environmental laws and developing the manual, EcoPravo and the Ministry of Natural Resources and Environmental Protection of Belarus (Minpriroda) held three meetings. In these meetings, lawyers and environmental inspectors from different levels discussed practical problems of enforcement of environmental legislation in Belarus. These discussions had a great impact, and the regulation on environmental control has been updated and amended. Moreover, on the basis of this manual, Minpriroda is now developing a new procedure for implementing environmental control actions in Belarus.

For more information, contact Ms. Elena Laevskaya at EcoPravo@Solo.by



GUYANA'S COMPLIANCE AND ENFORCEMENT MANUAL

To assist Guyana's enforcement officers in prosecuting environmental violations and promoting transparency and consistency in the enforcement of environmental laws, Guyana's Environmental Protection Agency (EPA) drafted a Compliance and Enforcement Manual in June 2001. This guidance delineates at what point enforcement officers should issue a warning letter, prosecute a case, and take other enforcement-related actions. It draws upon United Kingdom and USEPA approaches, and is currently in draft form. As such it is an in-house document, and EPA staff are applying the Manual loosely.

The guidance in the Manual focuses primarily on authorised entities (i.e., those entities that have a governmental permit, for example to release pollutants), although legislation gives broader powers to officers to investigate any premises from which there will likely be a significant discharge to the environment or other environmental threat.

In carrying out this mandate, enforcement includes inspections, prosecutions and negotiations. The types of inspections described in this guidance include:

- (1) Walk-Through, where officers check equipment, observe work practices, and verify records being kept. Officers will usually seek to determine whether the facility is authorised and if the authorisation is up to date. If there was any requirement to install pollution control equipment this is verified. This level of inspection will indicate whether there is a need for more involved inspections.
- (2) Compliance Evaluation Inspection, which is the next level of inspection. It involves establishing the level of compliance with an authorization. This inspection may be triggered by the complaints mechanism. At this time, no sampling is done but other forms of evidence are taken to ascertain the potential breach. Officers will establish whether required sampling and analysis are being carried out, if records are accurate, and if there are any signs of willful breach of the legislation or authorization.
- (3) Sampling Inspection, which is the highest level of inspection and involves taking samples. This inspection reflects the intent of the Agency to initiate prosecution. Officers establish whether the plans and practices support the required environmental conditions set forth in the authorization. Officers establish this by reviewing the information gathered in the walk-through and the compliance evaluation inspection, as well as sampling. In this step, officers seek to determine whether breaches were committed, and if so whether there was a willful violation.

The guidance indicates how evidence should be gathered with a view to supporting the development of prosecution cases. Officers typically should be prepared to give testimony. To this end, the Agency developed a checklist of procedures for gathering evidence, which typically includes setting objectives of inspection, setting tasks to be

Guyana's Compliance and Enforcement Manual (cont'd)

conducted, review of relevant documents related to an environmental authorization, legal review of breach, prepare necessary equipment, review sampling guidelines, and agree on procedures, time, and order of inspection.

Guidance also covers reporting on the inspection, preparing the inspection plan including logistical aspects and strategies. These may include, for example, whether to announce that an inspection will be carried out (officers usually arrive unannounced, though); whether the agency should consider third-party inspection; legal authority; whether closing conferences should be conducted; and how to document the breach so that information is clear and complete (and therefore useful in a court).

Guidance also covers the areas of enforcement and prosecution. Actions under these generally fall in two categories: remediation of harm and response to criminal offences. The Act gives the power to issue environmental authorisations that are subject to suspension, variation, cancellation, revocation, etc.; enforcement notices; prohibition notices; ensure remediation with recovery of costs provided by the polluter; injunctions; and other relief and sanctions. EPA can enter and search premises, seize documents, articles, dismantle or test any article to investigate possible violations.

A warning system is employed where there is a site warning and a warning letter after which the formal caution would be issued (e.g. notices to cease). The Agency can also take legal action through injunctions.

Enforcement action is guided by: impact or potential impact on water quality, nature of the offence, intent (deliberate, reckless, unintentional), previous history of the developer/polluter, attitude of the offender (refusal to accept alternative enforcement action, attempts to minimize/rectify effects, obstruction of investigations, disregard of EPA advice, dishonest action to defer or delay EPA enforcement action; OR cooperation, prompt action, or other good-faith efforts), deterrent effect, offender's personal circumstances, foreseeability (offence occurred in spite of preventive measures, result of defective equipment, caused by third party intervention).

Guidance on negotiation when the threat of litigation is real provides another option for the Agency.

Guidance also summarises the offences under the Environmental Protection Regulations 2000 on Noise Management, Water Quality, Air Quality and Hazardous Waste Management. Such guidance refers to the statutory reference, the protective response options, and normal offence response. Under these, the possibility to establish pollutant transfer and release registers is possible, as the regulations ensure that maps of sampling points, information on spills and accidents etc. are communicated.

For more information, see <http://www.epaguyana.org> or contact Ms. Eliza Florendo eflorendo@epaguyana.org or Ms. Emilia Maslen emaslen@epaguyana.org

Criteria for Enforcement Priorities

- 411** (e) *Criteria for enforcement priorities that may be based on harm caused or risk of harm to the environment, type or severity of environmental law violation or geographic area;*

When setting enforcement priorities, policy makers usually balance several important objectives. Setting priorities is especially important when financial, technical and legal resources are limited. The Guidelines suggest criteria that can be used to determine enforcement priorities. Several more are provided below.

Some States have chosen to formally outline their enforcement priorities in the form of country-specific environmental action plans, like the countries in the Eastern Mediterranean. Other States have instead chosen to set up special programmes that prioritise a particular issue.



LEBANON, OMAN, SAUDI ARABIA & SYRIA/WHO – ENVIRONMENT & HEALTH PLAN OF ACTION IN THE EASTERN MEDITERRANEAN REGION

West Asian countries have made substantial efforts to integrate environmental aspects into their development schemes and strategies. Most have formulated national environmental action plans that include identification and prioritization of key issues and have set timetables and targets for implementation. For example, Lebanon, Oman, Saudi Arabia and Syria have initiated coastal management plans and The World Health Organization has prepared a plan of action in the Eastern Mediterranean Region in which priorities have been set for different countries with regard to the environment and health related problems.



THE PHILIPPINES' PRIORITY PROTECTED AREAS PROGRAMME

In the Philippines, NGOs have collaborated effectively with national and local governments on a wide range of issues. A consortium of 17 environmental NGOs (NGOs for Protected Areas, Inc.) received a US\$27 million grant to implement a seven-year Comprehensive Priority Protected Areas Programme. The programme is a major component of the World Bank-GEF Sectoral Adjustment Loan initiative being managed by the Department of Environmental and Natural Resources. It aims to protect natural areas that are particularly vulnerable as well as important natural resources.

CHECKLIST OF CONSIDERATIONS IN SETTING ENFORCEMENT PRIORITIES

- Addressing environmental problems that may be particularly harmful or important to the protection of public health, for example protecting water resources or managing municipal waste.
- Focusing on enforcement priorities that may render an economic benefit, for example protecting coral reefs or forest for ecotourism.
- Preserving the integrity of the enforcement programme (i.e. making sure that the administrative and data-gathering aspects of the programme are functioning effectively).
- Preserving the integrity of enforcement (i.e. maintaining an enforcement presence).
- Leveraging programme resources by focussing on the smaller subset of facilities where changes can have the greatest impact in improving environmental quality and/or creating deterrence.
- Be clear that the act of focusing on specific priorities does not absolve order violations. The rule of law requires everyone to comply with the laws.

National Environmental Crime Units

411 (f) *Establishing or strengthening national environmental crime units to complement civil and administrative enforcement programmes;*

Specialised environmental crime units composed of people trained in environmental inspection and criminal investigation have been used in several States with great success. Usually, the enforcement authority of the environmental crime unit overlaps and exceeds the authority of its civil or administrative counterpart. In many cases the units collaborate, utilising the expertise of both. In the United States Environmental Protection Agency (EPA), example provided below, the environmental criminal investigations agents are sworn federal law enforcement officers with statutory authority to conduct investigations, carry firearms, make arrests for any federal crime and to execute and serve a warrant.



U.S. EPA's CRIMINAL INVESTIGATIONS

USEPA's Criminal Investigations Division (CID) investigates the most significant and egregious violations of environmental laws. Generally, these violations are committed by persons acting with a sufficient degree of knowledge or intent so that imprisonment may be appropriate. Often, these violations pose a significant threat to human health and the environment. This agency also strives to provide state-of-the-art training to its employees and partners in international, federal, tribal, state, and local law enforcement, regulatory, and intelligence agencies. The CID investigates allegations of criminal wrongdoing prohibited by various environmental laws. These violations include, for example, the illegal transportation, treatment, or disposal of hazardous waste, the export of hazardous waste without the permission of the receiving country, the illegal discharge of pollutants to a water body of the United States, the removal and disposal of regulated asbestos containing materials in an illegal manner, the illegal importation of certain restricted or regulated chemicals into the United States, tampering with a drinking water supply, illegal handling or application of pesticides, mail fraud, wire fraud, conspiracy, and money laundering relating to environmental criminal activities.

[In the United States, other agencies are also responsible for investigating and enforcing environmental laws relating to natural resources, e.g., fisheries, wildlife, forests, and other related matters, including legislation implementing MEAs. For example, US Fish and Wildlife Service (FWS) inspectors and agents enforce domestic legislation that implements CITES; the National Oceanic and Atmospheric Administration enforces legislation implementing fisheries agreements; and the U.S. Coast Guard enforces legislation implementing MARPOL. All these agencies refer State matters for enforcement to the U.S. Department of Justice.]



CH II - D

U.S. EPA's Criminal Investigations (cont'd)



41(a)(v)

For more information on the CID, see <http://www.epa.gov/compliance/about/offices/division/cid.html>; see also the case study on "Specialised Environmental Administrative Tribunals and Prosecutors in the United States" following Guideline 41(a)(v).



TRINIDAD & TOBAGO'S ENVIRONMENTAL POLICE UNIT

The main purpose of Trinidad & Tobago's environmental police unit is to ensure enforcement of environmental laws. To this end, twenty police officers (one Sergeant, two Corporals, and sixteen Constables), under the command of the Commissioner of Police, and fully funded by the Environmental Management Authority, have been trained to detect violations of and enforce various environmental laws.

With planned amendments to the Environmental Act, the duties of the Unit may be expanded to include escorting scientists/EMA officers during on-site environmental investigations, as well as conducting criminal investigation with respect to violations of the environment.

For more information, contact Mr. Alvin Pascal at alvinpascal@hotmail.com



ENVIRONMENTAL POLICE OFFICERS AND ENVIRONMENTAL PROSECUTORS IN BRAZIL

The Public Prosecution is a permanent institution within the governmental structure of Brazil. It is essential to the juridical functioning of Brazil, and it has the duty to defend the juridical order, the democratic regime, and inalienable social and individual rights and interests. Environment rights are included in these duties.

The Public Prosecution comprises two components: the Public Prosecution of the Union, and the Public Prosecutions of the States. Both components have specialised units that are responsible for prosecuting cases regarding the environment.

Environmental protection is also the duty of various police agencies in Brazil, including the federal police, civil police forces, and military police forces. Their offices are spread over Brazilian territory. Among the various police forces, there are a number of police officers that specialise in environmental crimes.

For more information, see

<http://www.v-brazil.com/government/laws/constitution.html>

or contact larissa.godoy@mma.gov.br, maria-carolina.hazin@mma.gov.br, or raquel.breda@mma.gov.br



[41(k)]

Some States have also developed honorary, voluntary, or informal environmental police or wardens, particularly to regulate natural resources in remote areas. A few examples are discussed following Guideline 41(k), below, on public participation in enforcement.



ADDITIONAL RESOURCES FOR ENVIRONMENTAL CRIME UNITS

Management Reference Book for Environmental Inspectorates (IMPEL 2003), available at http://europa.eu.int/comm/environment/impel/managment_reference_book.htm (with examples of good practice from many European countries).

Jeremy Firestone, "Enforcement of Pollution Laws and Regulations: An Analysis of Forum Choice," in Durwood Zaelke et al., *Making Law Work: Environmental Compliance & Sustainable Development*, Vol. 2, p. 283 (Cameron May, 2005) (addressing choice of civil vs. criminal enforcement in the United States).

Andreas Gallas & Julia Werner, "Transboundary Environmental Crimes: German Experiences and Approaches," in *Proceedings of the Fifth International Conference on Environmental Compliance and Enforcement*, Vol. 1 (INECE 1998), available at <http://www.inece.org/5thvol1/gallas.pdf>.

Economic Instruments to Promote Compliance

[41] (g) *Use of economic instruments, including user fees, pollution fees and other measures promoting economically efficient compliance;*

Economic instruments can be a very effective way of inducing compliance, raising funds for enforcement activities and environmental protection and cutting compliance and enforcement costs. The OECD has defined economic instruments in the following way:

Economic instruments constitute one category amongst others of environmental policy instruments designed to achieve environmental goals. They can be used as a substitute or as a complement to other policy instruments such as regulations and cooperative agreements with industry. One basic objective of economic instruments is to ensure an appropriate pricing of environmental resources in order to promote an efficient use and allocation of these resources.

Environmental programmes can encourage compliance by providing economic incentives for compliance. This may be an effective approach in public agencies, which are less likely to be deterred by monetary penalties, since they are funded by the Government. The benefit from compliance can be applied to the facility generally, or to an individual based on his or her performance. Economic instruments include:

Fees

The facility is charged based on characteristics (e.g. amount, rate, and toxicity) of its pollution (e.g. effluent, emissions, and wastes). Unlike monetary penalties, fees create an immediate cost to the facility for polluting. Fees generate revenue that can be used by the enforcement program. Fees should be high enough to deter pollution, so as to prevent them being perceived as a “license to pollute.”

Tax Incentives

These are reduced taxes for costs associated with improving environmental quality e.g. installing pollution control equipment, or changing a process to prevent pollution.

Pollution Taxes

These taxes are based on the volume and/or toxicity of emission, effluents, or wastes generated. Pollution taxes can be a purely economic alternative to setting standards.

Subsidies

Subsidies can be used to promote technologies or sectors necessary to implement MEAs. Where environmentally friendly alternatives are more expensive, subsidies can lower the cost to the consumer and thus promote their purchase and use. Alternatively, facilities that comply with requirements can receive a subsidy to help defray the cost of compliance.

Facility or Operator Bonuses

For achieving better results than specified in permits licenses or regulations.

Promotion Points.

For senior managers in government-owned facilities achieving compliance.

Ecotourism

Another way to promote protection of the environment in an economically efficient manner is Ecotourism. Ecotourism is a term that refers generally to tourism in natural areas that promises to protect the environment by generating money for protection while ensuring that visitors act in an environmentally sensitive manner.

Emissions Trading Programmes

While this tool tends to be more common in developed countries, a growing number of countries are exploring and developing emissions trading programmes. Most of these programmes place a “cap” or overall limit on the emission of a particular pollutant or group of pollutants. The companies that are currently operating are allocated a certain amount of emissions, often based on their historic emissions. Sometimes, an amount of emissions is set aside for new companies so that they can enter the market. If a company would like to emit more of that pollutant, it must buy the right to emit that amount from another company. The price is set by the market — what a potential buyer is willing to pay to a seller — and it fluctuates. At the other end of the bargain, the selling company may identify efficiencies in its operations that allows it to reduce its emissions while maintaining (or even increasing) its production. Typically, the initial prices are modest, but tend to grow as companies become more efficient and there are fewer ways for companies to generate extra emissions savings.

Research has shown that enforcement is essential for an emissions trading programme to function effectively. See, for example, <http://www.inece.org/emissions/index.html>

Creative Financing Arrangements

Cost can be a barrier to compliance. Experience in industrial environmental management has shown that oftentimes facility managers may want to comply but may not be able to afford the cost of fulfilling the requirements. Some creative financing arrangements that can help solve this problem include:

Offset Requirements. This arrangement is essentially a tax on new investments. It requires investors interested in building a new facility to pay for modifications (e.g. installation of new process technology or controls on existing technology) that will reduce or “offset” pollution at an existing facility. Offset requirements should not be so expensive that they will discourage new investments. Some mechanism will be needed to ensure that the equipment in the existing facility is maintained and operated once it has been installed.

Peer Matching. Peer matching is similar to offset requirements, but is voluntary. In this case, investors interested in building a new facility are asked to “adopt” an existing facility and help it reduce pollution. Foreign investors, in particular, may be interested in this arrangement, as a means of promoting good will in the local community and with government authorities.

Sales of Shares. In situations where a government-owned facility is being privatized, the facility can raise money by selling shares in the facility to investors. This option can be particularly attractive if members of the local community are willing to invest. Proceeds can be used to renovate the facility so that it can comply with requirements and reduce or eliminate the impacts of pollution on the local community.

Loans. Under this arrangement, institutions loaning money for new investments require that a certain portion of the loan be applied to restoration or protection of environmental quality.

Environmental Bonds. Governments or private owners of a facility subject to environmental requirements can issue bonds to raise money to finance the changes needed to meet the requirements. The owners pay interest on the loan to the bondholders until they are able to pay back the loan in full. In some States, the interest earned from environmental bonds is tax-free. Environmental bonds are particularly appropriate in situations where the facility can recoup the cost of compliance by charging users of the service or product a fee (e.g. municipalities can charge citizens and industry for water use to help pay the costs of water treatment). This revenue helps assure bondholders that their loans will be repaid.

Other States have encouraged environmental protection by using traditional economic mechanisms such as price adjustments, subsidies, and loans.



EQUITABLE DISTRIBUTION OF FUNDS FROM MINING IN SIERRA LEONE

According to Sierra Leone's Gazette Vol. CXXXV, No. 2, the Mineral Policy seeks to minimize and mitigate the adverse impacts of mining operations on public health, communities, and the environment. The Government of Sierra Leone ensures that communities affected by mining operations benefit from development programmes funded by the local taxes, fees, and land rents charges imposed on mining operators by the land owners. Initially these monies went into a consolidated fund. Presently, though, a portion of the funds accrued from taxes, licenses, and land rents are allocated to communities for development on a yearly basis; and the remainder of those monies goes into the country's Ecological Fund. In addition, large mining companies are asked and required to put aside money for rehabilitation of mined-out areas after conclusion of mining activities.

For more information, contact cssl@sierratel.sl



ECONOMIC MECHANISMS IN ASIA

China: "Green" Accounting and Incentive Programmes. Economic instruments such as pollution charges, pricing policy favorable terms of investment for environmental technology, market creation, as well as ecological compensation fees, are being introduced and, in the coming decade, China aims to incorporate natural resource and environment values into the accounting system for its national economy and to establish a pricing system that reflects environmental cost.

Environmental Service Subsidies in Thailand. Thailand has subsidized capital investment

Economic Mechanisms in Asia (cont'd)

of the treatment of hazardous waste and toxic chemicals, implemented a service charge on community wastewater treatment and introduced a price differentiation between leaded and unleaded fuels.

Taxes in Philippines, India, and Korea. Economic incentives and disincentives are being employed to promote environmental conservation and efficient resource use. Incentives include preferential tax credits and accelerated depreciation allowances on pollution abatement and control equipment. For example, tax deductions stimulated the installation of industrial anti-pollution equipment in the Philippines and the Republic of Korea, while in India an investment allowance of 35%, compared with the general rate of 25%, is provided toward the cost of new machinery and plant for pollution control or environment protection.



GAMBIA'S ENVIRONMENTAL AWARDS

The Gambia has developed an environmental award system to popularize environmental issues at all levels. On World Environment Day (5 June), prizes are awarded to the most environmentally friendly school, industry/enterprise, and farm. Quiz competitions and talk shows on the environment are organized for schools and the public, respectively. The awards system is financed by the Government and by donor agencies, and awards are mostly in kind, not cash. Thus, awards typically include tools and equipment that will help promote environmental awareness or best available technologies (BAT) for industries. While the themes of the awards are geared toward better environmental management generally, the awards often recognise undertakings that directly or indirectly advance objectives of various MEAs.

For more information, contact the EEC unit, National Environment Agency (NEA) at nea@gamtel.gm



Presentation of Environmental Awards, The Gambia.



DEMAND-SIDE MANAGEMENT IN THE POWER SECTOR IN THAILAND

An interesting success story is the Demand-side Management Programme in the power sector of Thailand, partly funded by the Global Environment Facility (GEF). Recognising the severe impacts of accelerated energy demand, the Thai Government has adopted a comprehensive Demand-Side Management (DSM) Plan for the power sector. A five-year (1993-97) DSM Master Plan was formulated and implemented with a total budget of US\$189 million. By the end of October 1997, the DSM programmes were saving 295 MW of peak demand and 1,564 GWh a year of electrical energy. The reduction in carbon dioxide emissions through implementing the DSM programmes was estimated at more than 1 million tonnes a year while investment requirement in power generation was reduced by US\$295 million.

The programmes also resulted in consumer savings of US\$100 million a year in terms of electricity bills. The DSM programmes include: switching lamp production from fat tubes (40 W and 20 W) to slim tubes (26 W and 18 W) and promotion, by the Electricity Authority of Thailand (EGAT), of compact fluorescent lamps instead of incandescent lamps through price differentials.

There is also the Green Building Program, through which commercial buildings can obtain Compact Fluorescent Lights (CFLs) at a subsidized price. For existing buildings, EGAT carries out an energy audit, design, and retrofitting of electrical systems to comply with the energy efficiency requirements set by the Government. EGAT also provides interest-free loans to building owners for energy-saving modifications; a programme to replace fluorescent lamps for rural street lighting with subsidized high-pressure sodium vapour lamps; a campaign to test refrigerators and air-conditioners for efficiency, and interest-free loans to purchase efficient air-conditioners. Another programme under EGAT encourages manufacturers and importers of electric motors to produce or import high-efficiency motors, and industrial entrepreneurs to utilise high-efficiency motors by providing interest-free loans to meet the additional cost.



An energy-efficient compact fluorescent light bulb.



ECOTOURISM IN KENYA

Because most of Kenya's wildlife exists outside of its National Parks, Kenyans have experimented with a range of community and private initiatives to set up tourism for ecotourism enterprises on their land. These ventures may involve the setting aside of game viewing areas on large private ranches, or on group ranches, and sometimes collaboration between groups and individual ranchers to increase the total area of land available for conservation and ecotourism activities. Il Ngwesi, a 16,500 acre group ranch in the northern area of Kenya, opened a small lodge in 1996, grossed US\$40,000 in 2000. The Mara Conservancy, in the Trans-Mara area of Kenya, is a new initiative aimed at ensuring that the local community actually receives the proceeds from tourism activities carried out in their area. Several group ranches have subcontracted a private company to manage their game viewing area collect entry fees, reinvest funds in the reserve's infrastructure, and pay the community.

K. J. Markowitz, Earthpace LLC



Ecotourism safari in Kenya's Masai Mara.



ECONOMIC INSTRUMENTS IN BARBADOS

Environmental Levies

In Barbados, the Environmental Levy Act, 1996, seeks to promote efficient solid waste management and implement the Polluter-Pays Principle by defraying costs of waste collection and disposal of imported goods. The Act provides that a tipping fee of \$40.00 per tonne of waste deposited in a landfill (to be charged at the landfill). The Act also imposes an environmental levy on a wide range of goods including:

- a rate of \$10.00 per unit for motor vehicle tires, and \$1.00 per unit for other types of tires; and
- a 1% levy on all goods imported in containers of plastic, glass, metal, or paperboard, in addition to empty containers imported made of plastic, glass, metal, or paperboard.

Businesses engaged in recycling activities are to receive the same concessions as those granted to manufacturers on machinery, spare parts, or equipment. The Comptroller of Customs administers the Act. Revenues generated from the Environmental Levy are deposited in the Consolidated Fund.

For more information, contact Captain Randolph Straughn of the Customs Department cheryl.harewood@customs.gov.bb or Mr. Ricardo Marshall in the Ministry of Health solid@sunbeach.net

Economic Instruments in Barbados (cont'd)

Tax Incentives for Solar Energy and Energy Conservation

Barbados has developed a variety of tax incentives to promote solar energy and energy conservation. As with many other Small Island Developing States concerned about climate change, measures such as these are important symbolic measures (they do not emit a large proportion of the world's greenhouse gases). However, such tax incentives pre-date the UNFCCC and were motivated by primarily by economic factors. A study in the early 1970s (James Husbands, Managing Director, Solar Dynamics Ltd, "A Review of the Costs of the Tax Incentives to the Solar Industry in Barbados") found that tax incentives for solar energy could save the island an estimated US\$50,000,000 of energy in less than two decades, with a cost to the Government of \$6,600,000 in tax revenues. This cost-benefit analysis has been a major influence in the development of the solar energy industry in Barbados.

The decision to implement these tax incentives reflected a belief that the incentives were mutually beneficial for customers, service providers, and the Government. In 1974, the Fiscal Incentives Act was enacted, and it included exemptions on the raw materials for solar water heaters from the 20 percent import duty, and simultaneously a 30 percent consumption tax placed on conventional electric water heaters.

In 1980 the Income Tax Amendment provided a deduction of the full cost of a solar water heater installation. This deduction was in place until 1992 and was suspended due to IMF recommendations for reform. Starting in 1996, the solar water heater deduction was re-established as part of a personal home improvement allowance deduction for (but not limited to) energy- or water-saving devices, and solar water heaters. This deduction is subject to a maximum of BBD\$3,500 (approximately US\$1,730) per year.

For more information, contact Mr. William Hinds or Mr. Richard Goddard at the Ministry of Energy and Public Utilities at energydiv@sunbeach.net

Returnable Containers Act

The Returnable Containers Act, 1985, encourages dealers of beverages in Barbados to use returnable containers. The primary objective of this Act is to facilitate the bottle-return scheme for glass and plastic bottles. The Act, which was amended in 1991, provides for the sale of beverages in beverage containers; the payment of a deposit on beverage containers, a refund for the return of these containers, and the final disposal of unused or unusable containers. The reduction of widespread littering on the island with plastic and glass bottles is thought to have been a direct result of this Act and the bottle refund programme initiated by several supermarkets and recyclers.

The Act covers beverage containers for carbonated drinks, non-carbonated soft drinks, mineral water, soda water, beer, and other malt beverages. The Act makes provision for the return of glass, metal, aluminium, steel or plastic bottles, cans, or jars which contain one gallon (3.8 L) or less at the time of sale of a beverage intended for use or consumption in Barbados.

Economic Instruments in Barbados (cont'd)

The Act requires retailers (who sell beverages) to accept, from any person requesting a refund, any empty beverage containers of the type (design, shape, size, colour, composition, and brand) sold to him by the distributor. The retailer may refuse to accept any empty beverage container for which the refund value is not fixed by the Act, damaged containers, or containers that contain a significant amount of foreign materials.

The Act sets the current refund values Act at 10 Barbados cents (approximately US\$0.05) for PET bottles and 20 Barbados cents (approximately US\$0.10) for glass bottles. The Act also provides that distributors have to reimburse dealers or operators of bottle redemption centres for the refund value plus a handling and processing fee that is not less than 20 percent of the refund value.

For more information, contact Mr. Ricardo Marshall in the Sewerage and Solid Waste Project Unit of the Ministry of Health at solid@sunbeach.net



FINANCING CONSERVATION EFFORTS BY SELLING THE NAMING RIGHTS OF NEW SPECIES

Where financial resources are limited, creative solutions can be effective in raising additional funding necessary for environmental initiatives. One such approach is selling the right to name a recently discovered species. In fact, in recent years, conservation NGOs around the world have identified many new species and raised funds for their efforts through the sale or auction of naming rights. This approach could also provide financing opportunities for States, particularly those States that are rich in biological diversity.

This sponsorship of new species can have several benefits. It raises funds to support research on biological diversity (including taxonomic research). The funds also can be used for targeted conservation projects that enhance the survival of the newly discovered species, as well as other species. The process can also support regional management of and interest in local ecosystems.

According to internationally accepted scientific protocols, such as the International Code of Zoological Nomenclature, the person (usually a scientist) that first identifies a new species has the right to determine its formal scientific name (in Latin). Historically, scientists often have named species based on their physical characteristics, their geographic origin, and other objective criteria. In many instances, though, scientists have used their prerogative to name the species after themselves, after family members, after patrons or benefactors of the expedition, or for other subjective criteria. In essence, this new approach seeks benefactors after the fact, that is after the expedition and after the discovery.

Financing Conservation Efforts by Selling the Naming Rights of New Species (cont'd)

When scientists working for specific conservation NGOs discover a new species, the NGO can seek “sponsorship” of the new species by selling or auctioning the naming rights. Of course, there are limits on what name can be given to the new species. In order to maintain taxonomic consistency, the sellers ensure that suggested names are not offensive and that they generally follow international rules of nomenclature.

The idea behind these sales was first developed by Gerhard Haszprunar, a professor of systematic zoology at the University of Munich and director of the State Zoological Collection in Munich. It has since expanded worldwide through efforts by various non-profit and conservation organizations, including the Wildlife Conservation Society, the Audubon Society, and Canada’s Nature Discovery Fund. A German non-profit, BIOPAT (Patrons for Biodiversity) has raised more than \$450,000 for research and conservation through sponsorship of over 100 species.

Individuals, companies, and other institutions may purchase the right to name species. This provides a new way for corporations to promote themselves in media and advertising campaigns. Specific uses of funds raised through such sales and auctions include supporting surveys of bat populations in Sri Lanka, implementing taxonomic training programmes in Myanmar, and undertaking an inventory of Bolivian orchids in the Tariquia conservation area.

For more information, see <http://www.biopat.de/> or contact Mr. Claus Batke, President of BIOPAT claus.baetka@gtz.de



USEPA’s ECONOMIC INSTRUMENT PROVIDING INCENTIVES TO EXCEED COMPLIANCE

Within its traditional command-and-control framework, the U.S. Environmental Protection Agency (USEPA) has developed innovative ways to reduce payments (to the Government) as punishment and to encourage environmentally desirable expenditures.

In the final step of calculating a violator’s penalty, USEPA will offer to reduce the punitive component of the final penalty assessment by an amount up to what the violator agrees to pay for a Supplemental Environmental Project (SEP), which is calculated using a computerised economic model. SEPs are extra-ordinary actions to protect the environment or to assure future good behavior.

To qualify for such a penalty reduction, a SEP must satisfy four criteria. First, the SEP cannot take the place of required compliance with USEPA’s laws. Second, the SEP must “go beyond compliance” and thus be even more protective of the environment than is legally required. Third, the SEP must cost at least as much as the amount of the penalty reduction. And, fourth, the cost of the SEP can only be applied to reduce the punitive



[40(c)]

USEPA's Economic Instrument Providing Incentives to Exceed Compliance (cont'd)

component of the total penalty. Where the total penalty includes any economic benefit of non-compliance (BEN), this must always be paid. For a discussion of BEN, see the case study on "Setting Appropriate Administrative and Civil Monetary Penalties in the United States" following Guideline 40(c). For example, SEPs may include:

- (1) production-process (e.g., source reduction or waste minimization) changes to prevent pollution, thus exceeding U.S. legal requirements merely to control it;
- (2) restoration or clean-up of nearby environmental damage caused by others (for whose actions the violator has no legal responsibility); and
- (3) community emergency planning and preparedness assistance, such as providing hazardous materials control equipment or training to local governments that must respond to emergencies.

USEPA experience has been that in the settlement of enforcement cases often a violator, at least one concerned about its public image and truly intending to reform, will opt to exceed legal requirements by performing a SEP and to enjoy a substantial penalty reduction.

EPA works with the Environmental and Natural Resources Division of the Department of Justice to negotiate SEPs as part of settlement in judicial enforcement cases. These SEPs are thereby made juridically enforceable.

For more information, see <http://www.epa.gov/Compliance/resources/publications/civil/programs/sebrochure.pdf>



ENVIRONMENTAL COMPENSATION IN BRAZIL

In Brazil, when a project causes a significant environmental impact, a portion of the total cost of the project needs to be paid into an environmental fund. Federal Law No. 9985, of July 18, 2000, which established the National System of Nature Conservation Areas, requires project proponents to pay not less than 0.5% of the total cost of the project into the fund as environmental compensation, whenever the that project is expected to cause significant environmental impacts. The environmental office in charge of managing the particular area (or areas) determines which conservation area(s) is able to receive compensation as a result of the project's impacts. If compensation is warranted, the office also decides the exact amount of the compensation, based on the degree of impact.

When a project is expected to harm a specific conservation area, the environmental office in charge of managing that conservation area is responsible for approving the license for the project. When compensation is warranted, the compensation monies

Environmental Compensation in Brazil (cont'd)

must be spent on the conservation area that is harmed and spent on creating a new conservation area, depending on the criteria of the office.

According to Federal Decree No. 4340, of August 22, 2002, which complements Federal Law No. 9985, the compensation that is paid must be invested according to the following order of priority (highest priority first):

- I. Fixing the boundaries of the conservation area and other activities related to regularizing the lands;
- II. Elaboration, revision, or implementation of the management plan;
- III. Paying for equipment and facilities necessary to implement, manage, monitor, and protect the area and its buffer zones;
- IV. Development of studies necessary to create a new conservation area; and
- V. Development of research necessary to manage the conservation area and its buffer zones.

Recently, negotiations led to the creation of an Environmental Compensation Fund, which will be an alternative to developers and other entities that need to pay environmental compensation but do not want to get involved in a bureaucratic process. This Fund will be financed by monies paid as compensation, and these monies will be applied to the creation, management, and implementation of Parks, Reserves, and other protected areas. The Fund is based on two premises: improving the efficiency of investing funds in order to really benefit conservation areas and facilitating the implementation of the law.

The Economic Federal Bank is in charge of managing the Fund. It will offer facilities to developers. All the contributions to the fund will be submitted to public proceedings in order to ensure transparency in the environmental compensation process.

For more information, contact raquel.breda@mma.gov.br, maria-carolina.hazin@mma.gov.br, or larissa.godoy@mma.gov.br



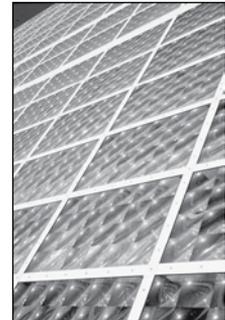
GEORGIA'S RENEWABLE ENERGY REVOLVING FUND

Georgia is establishing a Renewable Energy Revolving Fund (RERF) to assist in implementing the UN Framework Convention to Combat Climate Change (UNFCCC). In particular, the RERF will provide loans to private and municipal operators of existing small-scale hydropower plants and geothermal facilities. Other institutions wishing to promote the development of renewable energies in Georgia will also have access to the RERF.

The RERF will be established in the framework of a UNDP/GEF – KfW project to promote the use of renewable energy in local energy supplies (see “Technology Transfer to Build Capacity and Implement Climate MEAs in Georgia” following Guideline 33). Euros5.112 million from KfW and US\$2 million from GEF will provide the initial capital for the fund.

The RERF will be managed by a Fund Manager that is selected through a public tender. The requirements for the Fund Manager are that it be an independent, qualified accounting firm with an international reputation. The specific tasks of the Manager will be agreed upon by KfW, the Ministry of Environment and Natural Resources, and the Ministry of Energy.

The RERF will lend resources to the Financial Intermediate of the project, a local bank selected through public tender, at an interest rate of 3%. The local bank, in turn, will on-lend to the owners of small hydropower plants and geothermal pilot project at an interest rate of 5%, over a note period of 7 years. The local bank will be responsible for loan repayment. It is expected that the programme bank will be selected by the end of 2004, and a credit line opened and the first loans issued by the end of 2005.



Solar panels.

For more information, contact Mrs. Nino Gokheshvili at gmep@access.sanet.ge



THE GREEN FUND OF TRINIDAD & TOBAGO

The Green Fund was established by the Finance Act 2000. This Act introduced a 0.1 percent tax – the Green Fund Levy – on the gross sales or receipts of all companies conducting business in Trinidad and Tobago, payable at the end of each quarter. The purpose of the Fund is to enable grants to be made to community groups and organizations engaged in activities to remediate, reforest, and conserve the environment. While the establishment of the Green Fund was not in response to a specific MEA, it serves as a mechanism whereby financing for environmental programmes and projects can be sourced.

The Green Fund of Trinidad & Tobago (cont'd)

The Act provides for the Green Fund to be managed by a Green Fund Agency (GFA) consisting of a Chairman nominated by the Minister with responsibility for the Environment; three members representing the Environmental Management Authority; three members representing Labour, and three members representing the Private Sector. The Board of Inland Revenue is responsible for collecting the levy, and the money is transferred to the GFA within fourteen days of collection.

For more information, contact Mr. Alvin Pascal at alvinpascal@hotmail.com



UGANDA'S NATIONAL ENVIRONMENT FUND

Uganda's National Environment Fund (NEF) was established by the National Environment Act Cap. 153 Laws of Uganda. It promotes sound environmental management in Uganda by halting and reversing environmental degradation, strengthening human institutions and capital, and facilitating the formulation of effective policies. It does this by seeking to ensure that there is adequate and sustainable funding for environmental management. Section 89(2) of the Statute provides that the NEF may receive funds from the following sources:

- Disbursement from Government;
- All fees charged under this Act;
- Any fees prescribed for any service offered by the [National Environmental Management] Authority [NEMA];
- Any fines collected as a result of the breach of the National Environment Act or any statutory instrument made under this Act;
- Gifts, donations and other voluntary contributions to the Fund made from any source; and
- Any other sources.

More than US\$800,000 has been collected and disbursed through the NEF. The collected monies are invested in Treasury bills and bonds to generate a long-term, sustainable revenue stream.

Fees payable by project proponents for project briefs and environmental impact assessments (EIAs) are paid into the NEF. All the monies collected through the EIA process are paid into the NEF, and administrative costs are absorbed by NEMA without touching the fees collected, so as to allow the NEF to grow. There is a graduated scale for the EIA fees, based on the size of the project. Thus, where the total value of the project [Note that US\$1 = 1900 Shillings.]:

- does not exceed Shs. 50,000,000 the amount payable shall be Shs. 250,000;
- Is between Shs. 50 million and 100 million, the amount payable shall be Shs. 500,000

Uganda's National Environment Fund (cont'd)

- is between Shs. 100 million and 250 million, the amount payable shall be Shs. 750,000;
- is between Shs. 250 million and 500 million, the amount payable shall be Shs. 1,000,000;
- is between Shs. 500 million and 1 billion, the amount payable shall be Shs. 1,250,000;
- is between Shs. 1 billion and 5 billion, the amount payable shall be Shs. 2,000,000; and
- exceeds Shs. 5,000,000,000, the amount payable shall be 0.1% of the total value of the project.

For more information, contact Ms. Christine Akello at cakello@nemaug.org or info@nemaug.org



GHANA'S ENVIRONMENTAL FUND

Ghana's Environmental Fund was established under the Environmental Protection Agency (EPA) Act, 1994 (Act 490). Monies in the Fund come from:

- Grants from the Government;
- Levies collected by the EPA in the performance of its functions (including taxes, as well as registration and licensing fees);
- Donations from the general public, institutions, and organisations; and
- Gifts.

The Fund is managed and administered by the EPA Board. Under the terms of its enabling act, the monies in the Fund are applied to the following activities:

- Environmental education of the general public;
- Research studies and investigations relating to the functions of the Agency;
- Human Resource development; and
- Such other purposes as the Board in consultation with the Minister for Environment may determine.

For more information, see <http://www.epaghana.org> or contact epaed@epaghana.org



ENVIRONMENTAL FUNDS IN BULGARIA

Bulgaria has two types of environmental funds, each promoting different objectives. These are the Enterprise for Management of Environmental Protection Activities (and similar Municipal Environmental Protection Funds) and the National Trust Eco-Fund.

The main fund is now called the Enterprise for Management of Environmental Protection Activities (which does not describe its character and aims, since it is not an ordinary enterprise). It is an independent non-profit institution and does not have a management role. Instead, the Enterprise implements projects to support environmental strategies and programmes. The Enterprise is managed by a board of directors, chaired by the Minister of Environment and Water. The board also includes NGO representatives, scientists, and representatives from different institutions concerned.

The Enterprise (formerly the National Environmental Protection Fund) was established in 1992. Its management, operations, funding sources, ranges and types of expenses, and other administrative matters are regulated in the Regulation for Collection, Spending and Control of Financial Resources in Environmental Protection Funds, which was approved by Ordinance of the Council of Ministers.

The financial resources are collected from: fees from fuel imports, fees from importing second-hand motor vehicles, privatization funds, sanctions, fines for pollution, administrative fees (including fines and taxes), and payments on previous loans. The main sources of income are taxes and sanction revenues. [Penalties are split between the national Enterprise and municipal funds.] Some two thirds of its recent revenue (over 80% in 2000) comes from a single source, the liquid fuel tax. Other important sources include administrative taxes (varying between 8 and 25% of a year's budget) and sanctions (5 to 17%). Revenues were 62.7 million Leva (approximately US\$100 million) in 2000, 89.7 million Leva (US\$144 million) in 2001, and 80 million Leva (US\$128 million) in 2002.

Expenditure runs at about 85% of income. Nearly 90% goes in grants to municipalities and in low-interest loans to public or private companies for environmental infrastructure improvements (in particular relating to water and waste), and 5 to 9% is given to the national monitoring system including laboratories and protected area activities. The grants are issued to municipalities for environmental protection projects that have a strong social effect and preferably in regions with socio-economic problems. The low-interest loans are generally issued to companies, and one of the goals is to create jobs while protecting the environment. Examples of projects that have received funding include ecotourism and a municipal herb plantation.

Bulgaria has also established funds at the municipal level. The priority finance activities are the same as for the Enterprise, but in case of Municipal Environmental Protection Funds they are limited within the territory of the respective municipalities.

Environmental Funds in Bulgaria (cont'd)

The second environmental fund in Bulgaria is the National Trust Eco-Fund, which is responsible for managing financial resources accruing from the "debt-for-nature" swap between Bulgaria and Switzerland. In 1995, the Government of the Republic of Bulgaria and the Government of Switzerland signed a debt-for-nature agreement. Bulgaria was the second State in CEE (after Poland) to successfully perform such a swap. Under this agreement, the official Bulgarian debt to Switzerland was reduced by 20%. The remaining debt is paid by the government in Bulgarian currency (Levs) to a specially established fund (the National Trust Eco-Fund) and used to finance environmental protection projects.

The National Trust Eco-Fund was established in 1996, as an independent institution to manage the financial resources under the conditions of the debt-for-nature agreement, as well as funds provided under other agreements with international and national funding sources. It is replenished with monies provided by international financial institutions, governments, international funds, and non-resident legal persons. These monies include grants for environmental programmes and projects; donations from international foundations and foreign citizens to assist the national environmental policy; principal repayments and interest payment on loans extended through the Fund; interest on resources of the National Trust Eco-Fund deposited with the servicing bank; income accruing from portfolio investments of short-term government securities and bonds; and other external revenues consistent with the nature of the activities of the National Trust Eco-Fund.

Expenditures of the Eco-Fund are determined in accordance with strategic priorities and the priorities of the donor governments. The donors are represented in the management committee of the Fund. The Fund has been quite successful, and Bulgaria is now trying to establish a Protected Areas Fund that would also be managed by the National Trust Eco-Fund.

For more information on the Enterprise, see <http://www.moew.government.bg> or contact ESToyanova@moew.government.bg For more information on the Eco-Fund, see <http://www.ecofund-bg.org> or contact ecofund@Ind.internet-bg.bg



EECCA ENVIRONMENTAL FUNDS AND GOOD PRACTICES OF PUBLIC ENVIRONMENTAL EXPENDITURE MANAGEMENT

Most States in Eastern Europe, Caucasus, and Central Asia (EECCA) have established comprehensive Environmental Funds on national, regional (i.e., sub-national), and/or local levels. These Funds are domestic public entities that provide earmarked financing for a wide range of environmental improvements for both public and private sector enterprises. They typically operate as extra-budgetary mechanisms, but some EECCA Funds have been consolidated in the national budget while still earmarked for environmental projects.

In EECCA States, Environmental Funds are most often a part of the administrative structure of the environmental regulating authority, such as the Ministry or State Committee of Environment and regional/local administrations. Even on a national level, few EECCA Funds have well-established executive offices with qualified staff and clearly defined responsibilities. The management of the Fund is typically carried out by various departments of the Ministry of Environment, and the role of the political (rather than administrative) body often is significant in making final decisions on project selection.

Environmental Funds often provide subsidies for environmental improvement projects. It is projected that increased enforcement of environmental standards, permits, and taxes will lead to increases in private financing of such projects. At the same time, tightened governmental budgets will contribute to improved cost recovery in public services (and fewer subsidies). During the transition to a market economy, however, several factors limit the development of an effective environmental finance system based on the Polluter and User Pays Principles. These factors include: weak environmental management and enforcement, underdeveloped capital and financial markets, scarce private financing, uncertain political and fiscal systems, and weak civil society. Therefore, earmarked Environmental Funds have a role to play as a supplementary instrument of environmental policy in transition economies. As EECCA States make the transition to a market-based economy and develop healthy financing sectors, it is expected that Environmental Funds will be phased out.

In order to be effective, Environmental Funds must apply certain good performance standards, such as those outlined in the OECD Good Practices of Public Environmental Expenditure Management (PEEM). The Good Practices of PEEM build upon the 1995 St. Petersburg Guidelines on Environmental Funds in the Transition to a Market Economy (<http://www.oecd.org/dataoecd/28/57/2397072.pdf>), which became an internationally acknowledged framework for evaluating the performance of public Environmental Funds. The Good Practices apply to all public agencies managing environmental expenditure programmes, including Environmental Funds, and they provide a framework for streamlining environmental management into mainstream public finance. The Good Practices were developed through a series of international consultations with various stakeholders from the EECCA, Central and Eastern Europe (CEE), and OECD countries.

EECCA Environmental Funds and Good Practices of Public Environmental Expenditure Management (cont'd)

The Good Practices provide guidance on how to design and implement public environmental expenditure programmes in line with sound principles of public finance. They outline rules, procedures, and organisational frameworks that are acceptable for Ministries of Finance, international donors, and International Financial Institutions (IFIs). They also provide checklists for measuring the extent to which a public environmental financing institution aligns with the sound, internationally recognised standards for such institutions. The performance of programmes and institutions is measured along three dimensions: environmental effectiveness, fiscal prudence, and management efficiency.

The Task Force for the Implementation of the Environmental Action Programme for Central and eastern Europe (EAP Task Force) has used this methodology to review and evaluate the performance of a number of EECCA Environmental Funds. Experience shows that most EECCA Environmental Funds do not comply with the Good Practices for such institutions and could perform better. They do not provide significant financing for critical environmental investments, and their expenditure programmes are vague and not governed by transparent rules. Spending decisions are often politically driven, rather than based on a clear appraisal and selection criteria. However, a few spectacular success stories from CEE as well as more recent positive developments in some EECCA States show that managing public resources for environmental priorities in an effective and efficient way is possible should Governments choose to make the effort and work to implement good international practices for public financing institutions.

Different States will follow different paths in implementing the Good Practices, depending on their economic and institutional development and the maturity of their markets and public finance systems. Nevertheless, the Good Practices offer a general guidance for implementing reforms of existing public environmental expenditure programmes and their management structures. In addition, they can also be used when considering the possible establishment of new programmes and structures.

For more information, see <http://www.oecd.org/env/eap> or contact Ms. Nelly Petkova at Nelly.PETKOVA@oecd.org. Alternatively, access the OECD on-line database at <http://oecd.hybrid.pl>



THE POLLUTER-PAYS PRINCIPLE AND THE ECOLOGICAL FUND IN UZBEKISTAN

Uzbek law provides for the realization of the Polluter-Pays Principle. This law provides a framework for setting limits on emissions, releases of waste into the environment, and waste treatment. [Governmental bodies charged with nature protection establish the official limits for releases of pollutants.] The law also requires polluters to pay.

The fees that polluters pay go into a dedicated Ecological Fund, and the monies are used for activities that protect the environment. The Republican Government and local governmental bodies together decide which projects will be funded.

For more information, contact envconf@uzsci.net



PHILIPPINES' INTEGRATED PROTECTED AREA FUND

The Integrated Protected Area Fund (IPAF) is a trust fund established to promote the sustained financing of the Philippines' National Integrated Protected Areas System (NIPAS). The fund is derived from revenues generated within protected areas, donations, endowments, grants in the form of contributions, and all other income generated from the operation of the NIPAS. The IPAF consists of a Central Fund and a Sub-Fund. The Central Fund retains 75 percent of the collection and is intended to finance the operations of the protected area that generated the monies. The remaining 25 percent is remitted to the Sub-Fund, which is set aside to finance the activities of other protected areas that do not receive sufficient funds to sustain its operations. Disbursements from the Funds are made solely for the protection, maintenance, administration, and management of the NIPAS, as well as duly approved projects endorsed by the Protected Area Management Board.

An IPAF Governing Board administers the Fund and decides on fund allocation among the protected areas. The Board is chaired by the Secretary of the Department of Environment and Natural Resources (DENR) and is composed of two representatives from other concerned government agencies, two from duly accredited NGOs with a proven track record in conservation and, two from indigenous communities. To date, the total IPAF collection amounts to PhP 66,314,122 (approximately US\$1,185,200), which was generated from a total of 82 protected areas.

For more information, contact Ms. Meriden Maranan at planning@pawb.gov.ph or see the case study on "Participatory Management and Monitoring of Protected Areas in the Philippines" following Guideline 41(a)(ii).



[41(a)(iii)]



ZIMBABWE'S CARBON TAX AND ENVIRONMENTAL FUND

Zimbabwe is presently entering a stage of rapid industrialization and motorization. Together with the benefits that these bring, the disadvantages have also become apparent. With increasing urbanization and rapid growth of cities, urban transport is growing, increasing traffic densities and the use of diesel and petrol vehicles. This has resulted in increased air pollution, as well as the increased emissions of greenhouse gases such as carbon dioxide.

In order to limit CO₂ emissions, the Government of Zimbabwe introduced a "carbon tax" payable by every motorist to the Revenue Authority. The tax was adopted through an amendment to the Income Tax Act and the Finance Act, and starting 1 January 2001 the Government started collecting the carbon tax.

The carbon tax is calculated according to the engine capacity of the motor vehicle. In 2004 the average tax on a light passenger family car is US\$5 per year. It is paid when the vehicle owner seeks the annual license renewal. It is currently estimated that the country has over 400,000 light vehicles, thus an estimated US\$2 million are collected from light passenger vehicles a year. If all categories of vehicles are included, the State could collect at least US\$4 million a year from the carbon tax.

This amount of money can go along way in addressing problems related to air pollution, especially from motor vehicles. The recently adopted Environmental Management Act calls for the establishment of an Environmental Fund that will facilitate in environmental management, including air pollution projects. The carbon tax is a potential source of funds for the capitalization of the Environmental Fund.

For more information, contact Mr. Rodger Mpande at mpander@ecoweb.co.zw



ENVIRONMENT FUNDS IN THE KYRGYZ REPUBLIC

The Kyrgyz Republic has established interlinked Local and Republican Environment Funds. The funds were established by Resolution No. y[]-239 of the President of the Kyrgyz Republic "On the Local and Republican Funds of Environmental Protection in the Kyrgyz Republic" of 21 July 1992 (as amended by Presidential Resolution No. y[]-203 of 14 June 1996). The funds seek to finance environmental measures, restore natural resource and environmental losses, and address and compensate for environmental consequences of emergencies and accidents. Regional and city environmental authorities are responsible for Local Environment Funds, while an Administrative Board manages the Republican Environment Fund of the Ministry of Environment and Emergencies.

Environment Funds in the Kyrgyz Republic (cont'd)

Local environment funds are supported by monies contributed by associations, enterprises, institutions, other organizations using natural resources, regardless of the bodies' ownership and management modes. The monies include:

- Payments for discharge of pollutants and disposal of wastes into the environment pursuant to a permit or license;
- Fines or other payments for unauthorized placement of wastes into the environment or for exceeding waste disposal allowances;
- Fines for accidental releases of waste and pollutants into the environment;
- Payments made to compensate for environmental damages;
- Charitable donations by natural resource users, juridical persons, and individuals;
- Dedicated payments by nature users to finance environmental protection activities;
- Profits from lotteries; and
- Income from environmental posts and other sources, which do not contradict the legislation in force.

The Local Environment Funds are used for:

- Participating in developing and implementing regional and Republican environmental programmes;
- Developing and updating environmental management technologies, reconstructing and repairing environmental elements of local significance, and for separate environmental uses;
- Conducting scientific research, pilot projects, and activities to develop new environmental technologies, devices, and equipment, including automated monitoring systems and other tools to assess the state of the environment and to provide environmental protection;
- Taking measures to prevent environmental violations and compensate for harm from the violations (such measures may include planting trees, addressing problems of noise, etc.);
- Carrying out activities to preserve and rehabilitate small rivers;
- Developing a network of special protected areas and preserving natural memorials;
- Carrying out environmental impact assessments;
- Improving logistical capacity and covering other expenses of local environmental bodies, particularly relating to environmental activities and training of personnel;
- Raising environmental awareness, including events such as contests, workshops, conferences, and meetings on environmental protection; and
- Training and financing the personnel of the Republican Environment Fund, in accordance with the budget.

Not more than 5 percent of Local Environment Funds can be allocated to an insurance reserve to address the negative consequences due to force-majeure events and accidents that cause environmental damage. The Local Environment Funds are used

Environment Funds in the Kyrgyz Republic (cont'd)

strictly for their designated purposes. Their use is controlled by the Administration of the Republican Environment Fund of the Ministry of Environment and Emergencies of the Kyrgyz Republic. Use of the Local Environment Funds is carried out according to annual plans that are agreed upon by the Heads of local State administrations and approved by the Administration of the Republican Environment Fund.

The Republican Environment Fund (including foreign currencies) is extracted from Local Environment Funds: 25 percent of each Local Environment Fund is contributed to the Republican Environment Fund. The Republican Fund is used for:

- Carrying out activities to rehabilitate nature (small rivers, lakes, etc.) affected by anthropogenic activities, as well as activities aimed at the common protection and rehabilitation of flora and fauna;
- Creating and operating special protected areas;
- Participating in developing and implementing Republican integrated programmes for environmental protection;
- Developing environmental legislation and norms;
- Carrying out State and public environmental impact assessments;
- Raising awareness on environmental issues;
- Improving logistical capacity and covering other expenses of environmental activities by the Ministry of Environment and Emergencies of the Kyrgyz Republic and its local bodies;
- Training and advanced training of personnel in the Ministry of Environment and Emergencies;
- Awarding incentives to private sector employees, to the employees of the Ministry of Environment and Emergencies, and to public environmental inspectors for any significant achievements in environmental management at the Republican level; and
- Maintaining the Republican Environment Fund and the Center of Environmental Strategy and Policy of the Ministry of Environment and Emergencies.

In some specific cases, the Republican Environment Fund can be used for (on a cost-sharing basis):

- Research, scientific experiments, projects to develop environmental technologies and equipment;
- Establishing facilities to process industrial and consumer wastes;
- Purchasing equipment for waste treatment and combustion, including purchases from abroad; and
- Replenishing Local Environment Funds (in case they lack funds) in order to carry out environmental measures in regions with critical environmental situations.

Part of the Republican Environment Fund can be allocated to create an insurance contingency for warning about and addressing environment consequences. The allocation of the reserve is calculated on the basis of the forecasted assessment of emergencies, typical for a local territory, and necessary expenses for warning about

Environment Funds in the Kyrgyz Republic (cont'd)

and addressing possible consequences.

The Republican Environment Fund is used in accordance with the budget for the planned period, which is developed by the Administration of the Republican Environment Fund of the Ministry of Environment and Emergencies and approved by the Government of the Kyrgyz Republic.

For more information on the Republican Environment Fund, contact rfop@osh.gov.kg



DEVELOPING AND ENHANCING GREEN TAXES IN NORWAY

In 1994, pursuant to a Parliamentary initiative, the Government of Norway appointed the Norwegian Green Tax Commission to investigate ways to shift the tax burden away from labour (e.g., income tax) and toward activities with environmental harms (such as increased emissions or use of natural resources). In addition, the Commission was requested to ensure that any proposals it developed regarding tax reform were “revenue neutral” (i.e., that they did not entail costs to the Treasury).

The Commission included representatives from four Ministries (Finance, Communication, Environment, and Energy), as well as representatives from industry, labour, local governments, environmental NGOs, and economists at universities.

In 1996, the Commission issued its final report. It recommended many changes (including increases) for green taxes. It also identified a number of governmental subsidies that provided negative environmental incentives, and it recommended that they be abolished, phased out, or reduced. The Commission suggested that the revenue that was generated from the increased green taxes and the reduced subsidies be used to reduce the taxation on labour (through payroll taxes) and to otherwise ease the transition.

The final report on Green Taxes – Policies for a Better Environment and High Employment is available (in English) at <http://odin.dep.no/odinarkiv/norsk/dep/fin/1999/eng/006005-992086/index-dok000-b-n-a.html>

For more information, contact Mr. Atle Fretheim (who served on the Commission) at af@md.dep.no



THE GAMBIA'S ENVIRONMENTAL TAXES

The Gambia adopted a Cabinet Directive in October 1999 to generate funds to support environmental activities of the National Environment Agency (NEA). The Directive provides that an environmental tariff be levied on all kinds of second-hand goods (except second-hand clothing), with the NEA retaining 75% of the revenue. These goods include cars, refrigerators, old tyres, batteries, and other second-hand goods that are potential environmental pollutants. The Directive also provides that monthly contributions of one Dalasi (approximately US\$0.037) are to be deducted at source from the salaries of all government and private sector employees. This amount is collected as income tax for eventual transfer to the appropriate accounts to be accessed by the NEA. NEA accesses the moneys by officially addressing a request to the Ministry of Finance and Economic Affairs.

For more information, contact nea@gamtel.gm



ECOLOGICAL GOODS AND SERVICES TAX AT THE SUB-NATIONAL LEVEL IN BRAZIL

The Ecological Goods and Services Tax constitutes a step toward shared environmental management among States and municipalities in Brazil. Nine Brazilian States have adopted the tax by making use of an opportunity established by the Brazilian Federal Constitution that allows States to define – through specific legislation – criteria for transferring resources from the Goods and Services Tax (ICMS), to which municipalities are entitled.

In this case, the designation of Ecological ICMS is due to the criteria that embrace environmental issues. The Ecological ICMS is an instrument created not only to compensate for environmental, but far more to encourage and (in some cases) even to contribute to environmental conservation. Each and every municipality within the States that have adopted the Ecological ICMS can benefit from resources of the Ecological ICMS. These municipalities may benefit, for example, through the creation of a protected area, either by the municipality itself or the State, or an increase in the surface area of an already existing protected area, or even by improving the quality of the conservation of the protected areas or some other specially protected area.

In order to facilitate the application of the Ecological ICMS, the percentages defined for each municipality are defined by use of a formula that measures the “Biodiversity Conservation Coefficient.”

For more information, contact raquel.breda@mma.gov.br, maria-carolina.hazin@mma.gov.br, or larissa.godoy@mma.gov.br

Environmental Taxes and Levies

As noted above, taxes may be used to generate revenue for environmental purposes, to dissuade particular actions (without prohibiting those actions), to shift environmental burdens to the persons and institutions undertaking environmentally harmful actions, and to encourage the internalisation of environmental costs. In additions, the tax codes (and similar legislation governing levies, duties, and other fees) can be structured to facilitate the use of particular technologies, the conduct of particular actions, or otherwise encourage particular actions.



TAX PROVISIONS TO IMPLEMENT MEAs IN ST. LUCIA

Starting in 2001, St. Lucia has waived customs duties on all renewable energy technologies (pursuant to the National Energy Plan and to promote implementation of the UNFCCC). Similarly, there are customs concessions on equipment that is to be used to recover ozone depleting substances.

For more information, contact Mr. Crispin d’Auvergne at cdauvergne@planning.gov.lc



TAX EXEMPTIONS FOR PRIVATE NATURAL HERITAGE RESERVES IN BRAZIL

In Brazil, the Private Natural Heritage Reserve (RPPN) is a private conservation area that is registered in perpetuity, with the aim of conserving biological diversity. The creation of a RPPN is a voluntary act by the owner, who decides to designate his property, or part thereof, as an RPPN, without losing the right to tenure.

To encourage designation of these conservation areas, the owner is allowed to apply to the National Institute for Colonization and Land Reform for an exemption of the Rural Land Tax for the area designated as an RPPN. The large membership of this Program and the growing relevance of RPPNs in the conservation scenario in Brazil have contributed to acknowledgment of these areas as protected areas. This category was included in Law No. 9985 of 2000, which established the National System of Nature Conservation Areas (SNUC; see case study on “Consolidation of Legislation Relating to Protected Areas in Brazil” following Guideline 41(n)).



41(n)

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Additional Resources On Economic Instruments

In addition to the resources on economic valuation described following Guideline 40(c), see:

Andrew Balmford et al., "Economic Reasons for Conserving Wild Nature," 297 *Science* 950 (2002) (estimating that the overall benefit-to-cost ratio of an effective global program for the conservation of the wild nature that remains is at least 100:1).

Herman Daly & Joshua Farley, *Ecological Economics: Principles and Applications* (Island Press 2003).

Joanna Fiedler & Paulina Janiak, *Environmental Financing in Central and Eastern Europe: 1996-2001* (Regional Environment Center for Central and Eastern Europe 2003), available at <http://www.rec.org/REC/Programs/SofialInitiatives/Enviro.Finance.in.CEE.pdf>.

Jurg Klarer et al. (eds.), *Sourcebook on Economic Instruments for Environmental Policy in Central and Eastern Europe* (REC 1999), preface and executive summary available at <http://www.rec.org/REC/Programs/SofialInitiatives/Ecolnstruments/sourcebook.html>.

Raymond J. Kopp & V. Kerry Smith (eds.), *Valuing Natural Assets* (Resources for the Future 1993).

Kalle Määttä, *Environmental Taxes: An Introductory Analysis* (Elgar 2006).

(Recognising that there are different types of environmental taxes and that they differ from one other according to the functions they serve and the manner in which they are implemented, this study highlights the appropriateness of different kinds of environmental taxes against a rigorous framework of theory and case study evidence. The study surveys regulatory and fiscal taxes, incentive environmental taxes, how to financing environmental taxes, and environmental taxes from the fiscal perspective.)

Jennifer McGuinn, *Investing in the Local Environment: Assisting Municipalities in South Eastern Europe to Access Environmental Funding* (Regional Environment Center for Central and Eastern Europe 2003), available at <http://www.rec.org/REC/Programs/LocalInitiatives/InvestingLocalEnvironment.pdf>.

Leisa Perch, *Issues and Challenges in Implementing Economic Instruments for Environmental Management in the Caribbean Sub-region: Selected Case Studies* (UNECLAC 2000).

Jennifer Rietbergen-McCracken & Hussein Abaza (eds.), *Economic Instruments for Environmental Management: A Worldwide Compendium of Case Studies* (UNEP/Earthscan 2000).

Paul F. Scodari, *Measuring the Benefits of Federal Wetland Programs* (Environmental Law Institute 1997).

OECD, *Environmental Performance Review – Chile* (2005), available at http://www.oecd.org/document/32/0,2340,en_2649_34307_34856224_1_1_1_1,00.html (in English and Spanish) (highlighting, inter alia, the innovative use of economic instruments, including trading mechanisms for air emissions and water rights).

UNECLAC, *Application de Instrumentos Economicos en la Gestion Ambiental en América Latina y el Caribe: Desafios y Factores Condicionantes* (2001) (in Spanish), available at <http://www.eclac.cl/dmaah/dmaah/instrum/pdf/LCL%201488.pdf>.

UNEP, *Application and Use of Economic Instruments for Environmental and Natural Resources Management: Training Resource Manual* (2004).

UNEP, *Selection, Design and Implementation of Economic Instruments in the Solid Waste Management Sector in Kenya: The Case of Plastic Bags* (2005), available at <http://www.unep.ch/etb/publications/EconInst/Kenya.pdf>.

Additional Resources On Economic Instruments (cont'd)

UNEP, *Economic Instruments in Biodiversity-Related Multilateral Environmental Agreements* (2004), available at <http://www.unep.ch/etb/publications/EconInst/econInstBioMea.pdf>.

(This study investigates the current and future potential role of economic instruments in the context of three biodiversity-related MEAs: the Convention on Biological Diversity, the Convention on International Trade in Endangered Species of Wild Fauna and Flora, and the Ramsar Convention on Wetlands. The main types of economic instruments relevant to protecting biodiversity and the principal provisions and negotiations on economic instruments in the three MEAs are identified. Using numerous examples, the study suggests a range of thematic areas where the use of economic instruments could be further developed. It also discusses some of the conditions for successful implementation of such instruments.)

UNEP, *The Use of Economic Instruments in Environmental Policy: Opportunities and Challenges* (2004), available at <http://www.unep.ch/etb/publications/EconInst/econInstruOppChnaFin.pdf>

(This publication seeks to help policy-makers and experts to identify, design and evaluate economic instruments and integrate them effectively into pre-existing regulatory structures. It presents an innovative approach by offering a wide range of tools for conducting comprehensive assessments and tailoring solutions to a specific country situation and need. It also provides a framework for conducting policy design, implementation and evaluation through a case study approach, analyzing past experiences in an effort to assess, which instruments have worked effectively to address particular types of environmental problems.)

Anja von Moltke et al. (eds.), *Energy Subsidies: Lessons Learned in Assessing their Impact and Designing Policy Reforms* (UNEP/Greenleaf Publishing 2004).

Certification Systems

[41] (h) *Certification systems;*

Certification systems seek to ensure that products meet a set of agreed-upon standards. These programmes can be designed to encourage compliance with national and international environmental laws, or to go “beyond compliance” and to protect the environment more than the law requires. Many certification programmes are voluntary, market-driven mechanisms that use independent third-party verifiers to ensure that the certified goods adhere to the certification criteria. [These independent verifiers are usually accredited institutions or individuals who are not employed or otherwise affiliated with the producers.] Not all certification systems rely on third-party verifiers, but such independent verifiers can lend credibility to a certification system.

Certification systems can be national or international in scope. International programmes confer the benefits of increased economies of scale (e.g. increased efficiency with increased volume) and the standardisation of systems across participating nations. In contrast, the smaller scale of national certification systems allows them to be tailored more specifically to domestic conditions. Some national systems are endorsed or operated by government agencies while others are operated by trade associations or other entities.

Most certification systems are either (1) process-oriented or (2) end-product oriented. Process-oriented systems verify that products or materials are being produced according to a set of standards. End-product systems certify that the product itself has a certain quality.

The standards in process-oriented certification programmes are often designed to ensure the sustainability of the process. The question of what is sustainable can generate significant debate in any industry; and certification can offer an established set of criteria for determining sustainability in a particular context. Certification programmes can address the sustainability of the production process in a variety of ways. For example, certification can emphasise environmental considerations of production, such as organic agriculture and sustainable timber. Certification systems can also focus on the social impacts that industries may have on their employees (e.g., labour standards) and the communities in which they operate (e.g., “conflict” diamonds). Some certification systems address both social and environmental issues, such as the Forest Stewardship Council certification (see discussion, below). In this way, a single certification system can promote sound environmental management, adequate labour standards, and equitable sharing of benefits with the local community.

One example of process-oriented certification relates to “conflict” diamonds. In some States, diamonds are mined illegally in war-torn areas. In these situations, different groups may fight for control of the areas containing the diamonds (so the diamonds can motivate or aggravate the conflict). At the same time, some of the proceeds from the diamonds in these areas often are used to purchase arms, prolonging the conflict. To curb the violence fueled by these “conflict” diamonds, the United Nations is working with States and the legitimate diamond industry developing a certification program.

An important concept in many process-oriented certification systems is chain of custody, which traces a product through the supply “chain” from the extraction of the resource, to refining and production, to distribution, and ultimately to purchase by a consumer. A sound chain of custody prevents the co-mingling of certified and un-certified products. This enables manufacturers, traders, retailers, and consumers to avoid purchasing products or materials that do not comply with the certification programme standards. This concept is especially important in certification systems that involve resource extraction. For example, ensuring a sound chain of custody in the diamond and timber trades can make it more difficult for illegally logged timber and illegally mined diamonds to enter into the stream of commerce. As such, an effective chain of custody can reduce demand for uncertified products, as well as reducing illegal activities.

End-product certification systems deal with specific qualities of the product. For example, the EnergyStar certification system, operated by the US Environmental Protection Agency (EPA), certifies product lines that meet specific guidelines for energy efficiency. Examples of other end-product systems include those addressing health qualities of food products such as “low-fat,” “low-cholesterol,” “organically grown,” and “hormone free.”



End-product certification systems are often referred to as “eco-labeling” programmes. However, eco-labels are not always the product of certification systems. Some eco-labels are developed and used by individual manufacturers, producers, or distributors on their own to advertise certain characteristics of their goods and services. For example,

while some products may be labeled as “ozone-friendly,” there is no standard definition or certification process required to use this label. In most instances, though, eco-labels are an essential element of international and domestic environmental certification systems.

Compliance with certification programmes may impose costs on producers that can be significant. Producers may have to change their practices to conform with the certification standards. Some systems also require the producers to hire independent verifiers to certify that the products comply with the certification requirements. In order for a certification system to succeed, it is important that certification gives participating producers an advantage that compensates them economically for these costs. This economic advantage often takes the form of increased sales and consumer preference for certified products over uncertified products. This advantage only exists, however, when consumers and retailers discriminate between certified and non-certified products. Moreover, they must be willing to act on their preference, for example by purchasing certified products or requiring that their business partners purchase and use certified products.

If purchasers are willing to buy certified goods, rather than uncertified goods, then there is an economic incentive to invest the time and resources in becoming certified. This incentive is even stronger when consumers are willing to pay extra — a “premium” — for certified goods. Since consumer preference ultimately is a key factor (if not the key factor) in determining the long-term viability and feasibility of a certification system, consumer education and awareness raising is essential. Building awareness of retailers can also

assist in raising awareness of the consumers, so that retailers can better educate consumers about their choices.

There are several well-developed international certification programmes in the forest products industry. One programme that operates internationally is the Forest Stewardship Council (FSC). The FSC requires verifiers to apply 10 principles, excerpted below, when considering a forest for FSC certification. Compliance with these principles ensures that forest management plans and systems meet the necessary social, environmental, and economic standards. The FSC Principles are:

1. **Compliance with laws and FSC principles** — requires compliance with forestry laws of the State in which they occur and with all international agreements to which the State is a signatory.
2. **Tenure and use rights and responsibilities** — requires the clear definition, documentation, and establishment of the right to use the land.
3. **Indigenous people's rights** — ensures indigenous people's rights to own, use, and manage the lands they occupy and the resources found within those lands.
4. **Community relations and workers' rights** — requires the maintenance of the long-term economic and social well-being of forest industry workers and communities.
5. **Benefits from the forest** — encourages efficient use of forest resources.
6. **Environmental impact** — requires the maintenance of ecological functions of the forest and the conservation of biodiversity, water resources, soils, and unique and fragile landscapes.
7. **Management plan** — requires the establishment, implementation, and updating of a management plan of appropriate scale.
8. **Monitoring and assessment** — requires monitoring of condition of the forest, product yield, chain of custody, management activities, and social and environmental impacts.
9. **Maintenance of high conservation value forests** — requires management of forests with high conservation values in order to maintain or enhance the attributes which make it so, and requires the application of the precautionary principle to such management decisions.
10. **Plantations** — requires plantations to comply with principles 1-9 and states that plantations should complement, reduce the pressure on, and promote the conservation and restoration of natural forests.

For more information on the FSC, see <http://www.fsc.org>. Other certification schemes are highlighted in the case studies below.

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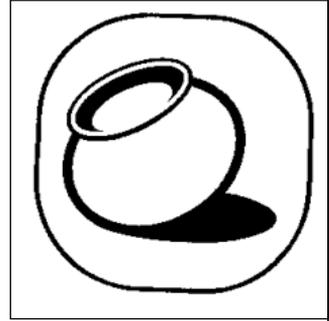


The FSC logo identifies products which contain wood from well-managed forests certified in accordance with the rules of the Forest Stewardship Council.



ECO-LABELING IN INDONESIA, SINGAPORE, AND INDIA

Environmental labeling is being promoted in a number of States to encourage cleaner production and raise awareness among consumers of the environmental implications of consumption patterns. In Indonesia, for example, timber certification and eco-labeling are used as instruments to attain sustainable forest management. In Singapore, some 26 product categories are listed under the Green Labeling Scheme, while the Indian government has prepared "Ecomark" criteria for 14 product categories – soap and detergents, paper, paints, plastics, lubricating oil, aerosols, food items, packaging materials, wood substitutes, textiles, cosmetics, electrical and electronic goods, food additives, and batteries.



Eco-label for India's "Ecomark" program.



EMERGENCE OF CITES AS A GREEN CERTIFICATION SCHEME

Although not expressly established as a green certification scheme, CITES is moving towards recognition as such a scheme in which governments effectively certify that specimens in a particular shipment have been legally acquired and that their trade will not be detrimental to the survival of that species in the wild. The CITES regulatory certification scheme relies on CITES Management and Scientific Authorities acting independently of the commercial interests of suppliers and users. Greater recognition of such an operational certification scheme depends on robust credible implementation, primarily achieved through the standardisation process.

For more information, contact cites@unep.ch



THE GLOBAL ECOLABELLING NETWORK (GEN)

Founded in 1994, the Global Ecolabelling Network serves as platform for exchange of information on national labelling activities around the world. GEN includes 28 States and international organizations as members. It provides advice and assistance in establishing national ecolabelling systems. It also seeks to foster better networking among existing systems, for example by developing common core criteria for products covered by the Nordic Swan (Scandinavia), the Japanese Ecomark, and the German Blue Angel.

For more information, see <http://www.gen.gr.jp/> or contact gensecretariat@terrachoice.ca



ISO 14000

The International Organization for Standardization (ISO) is the world's leading developer of international standards. The ISO 14000 Series was created as a certification system for standardised environmental management practices. For more information, see <http://www.iso.org>.

ISO Certification in Malaysia, Singapore, Thailand, and Nigeria

Recognition of the importance of clean technology is reflected by regional interest in ISO 14000 standards of manufacturing. National organizations certify that these standards have been established in Malaysia, Singapore and Thailand. The Philippines is adopting ISO 14000 standards as part of their national standards. Industries in the Republic of Korea are preparing to adopt the ISO 14000 environmental management system, and some companies have already introduced an internal environmental audit. Japanese companies have watched the ISO developments closely and many of them are planning to obtain the ISO 14001 registration, which they see as essential to succeed in international markets.

In Nigeria, the Shell Petroleum Development Company (SPDC) is committed to the external certification of its facilities under the International Standards Organization's ISO 14001 scheme. The ISO 14001, is an international standard for measuring how well the environment is managed by an organization. The fundamental principles of ISO 14001 are compliance with legislation and continuous improvement of the certified facilities. The ISO 14001 certification commitment is a lifelong commitment to the audit process, once the process is initiated. For SPDC (Nigeria), the latter is a transparent exercise that involves external audits, meetings, interviews, site visits and recommendation for or against certification.



ENVIRONMENTAL SELF-AUDITING IN THE UNITED STATES



41(a)(iii)

In the U.S., permitted polluters must self-monitor pollution control performance and report self-monitoring results as required by their permits. [For more information on this, see the case study on "Self-Monitoring Required by U.S. Environmental Laws" following Guideline 41(a)(iii).] In contrast, "environmental self-auditing" is voluntary in the United States: there is no legal requirement for companies to conduct comprehensive self-audits or to develop environmental management systems.

The U.S. Environmental Protection Agency (USEPA) welcomes the activities of the International Organization for Standardization (ISO), which encourage voluntary environmental self-audits or environmental management systems (EMS). However,

Environmental Self-Auditing in the United States (cont'd)

because the ISO 14000 program (see above) does not address compliance per se, it does not fulfill EPA legal requirements. Instead, EPA by law and policy has incorporated environmental auditing into the enforcement process, in two ways. First, self-monitoring, record keeping, and reporting requirements are commonly found in EPA laws and permits, and it is a violation to fail or falsify in fulfilling these legal requirements.

Second, a violator's voluntary agreement to do an environmental audit may be the basis for a substantial reduction in the punitive portion of its USEPA administrative or civil monetary penalty assessment (see the case study on "Setting Appropriate Administrative and Civil Monetary Penalties in the United States" following Guideline 40(c)). USEPA invites violators to "voluntarily" conduct an audit, rather like a voluntary Supplemental Environmental Project that the government will reward in the same way. The penalty reductions (incentives) are greatest for small business and for local governments. Because of USEPA's reputation for tough enforcement, voluntary self-auditing has increased significantly. (While the cost of the audit is credited to reduce the penalty, the cost of correcting or achieving compliance based upon the audit's findings – which by law must be done anyway – is not so credited.)



Third, where USEPA has not identified a violation, USEPA's audit policy encourages companies themselves to discover their violations and disclose them to USEPA. This must be done using an audit programme that is resourced, systematic, prompt, and independent. When a company agrees to correct and remediate harm, prevent recurrence, make information publicly available, and cooperate with regulators, USEPA usually does not impose a penalty. USEPA reserves to the Government the right to protect the public health and the environment in cases of serious violations, and USEPA does not excuse violations that are repeated, imminent, cause substantial endangerment or serious actual harm, criminal conduct, or yield substantial wrongful economic benefit from noncompliance. There is no total amnesty. Many enterprises have qualified for these incentives, to the benefit of themselves and the environment.

Criminal penalties, like administrative and civil monetary penalties, may also be reduced to encourage and reward environmental auditing. An offender may receive a reduced sentence where it had in effect a good-faith environmental auditing or compliance program. Similarly, an offender can expect some leniency when, reasonably promptly after becoming aware of the crime, the offender reports it to government authorities, cooperates, and accepts responsibility. At sentencing, leniency may be shown to the offender who agrees to reform and begins an effective environmental auditing program to prevent and detect future violations.

According to its audit policy, USEPA will not initiate criminal cases against companies that voluntarily and promptly disclose and correct violations and meet the specific conditions of the audit policy. But where an enterprise or its employees ignores an audit report of violations, is willfully blind to violations, or conceals or condones

Environmental Self-Auditing in the United States (cont'd)

continuing non-compliance, any audit report may become strong evidence of guilt (the so-called "smoking gun"). Under these circumstances, the audit report may be seized and used by the government as evidence of knowledge of violations, intent to continue to violate, and thus actual criminal behavior of the most serious kind.

For more information, see <http://www.epa.gov/compliance/resources/policies/incentives/index.html>, <http://www.epa.gov/ebtpages/compcomplianceaudit.html>, and <http://cfpub1.epa.gov/compliance/resources/publications/incentives/ems/>



ADDITIONAL RESOURCES ON CERTIFICATION SYSTEMS

(European) Eco-Management and Audit Scheme (EMAS): <http://europa.eu.int/scadplus/leg/en/lvb/l28022.htm>

International Organization for Standardization 14000: <http://www.iso.org/>

Forest Stewardship Council: <http://www.fsc.org>

Sustainable Forestry Initiative: <http://www.aboutsfi.org/core.asp>

Programme for the Endorsement of Forest Certification: <http://www.pefc.org/internet/html/>

Consumers Union Guide to Eco-labels: <http://www.eco-labels.org/>

Robert Goodland, *Ecolabeling: Opportunities for Progress toward Sustainability* (Consumer's Choice Council 2002), available at <http://www.eldis.org/static/DOC12454.htm>.

UN World Tourism Organization, *Voluntary Initiatives for Sustainable Tourism* (2002), available at <http://www.world-tourism.org> (providing a comparative analysis of 104 tourism eco-labels, awards, and self-commitments).

UNEP, *Ecolabels in the Tourism Industry* (1998), described at <http://www.uneptie.org/pc/tourism/library/ecolabels.htm>.

UNEP, *The Trade and Environmental Effects of Eco-Labels: Assessment and Responses* (2005), available at <http://www.unep.ch/etb/publications/Ecolabelpap141005f.pdf>.

Public Access to Judicial Procedures

- [41]** (i) *Access of the public and civil society to administrative and judicial procedures to challenge acts and omissions by public authorities and corporate persons that contravene national environmental laws and regulations, including support for public access to justice with due regard to differences in legal systems and circumstances;*

Allowing the public and civil society to challenge acts and omissions by public authorities and corporations that violate national environmental laws can greatly enhance the strength of a country's environmental enforcement.

This is because it empowers citizens to serve as enforcers in their own right. Depending on a State's legal system, granting legal standing to allow citizens and NGOs to bring suits challenging violations of environmental laws can be extremely effective.

The right of the public to take enforcement action independently of the enforcement agency as a form of public participation in environmental decisionmaking is just evolving in many nations around the world, spurred by the commitments of these States to the international norms and standards on access to information and public participation articulated in various declarations such as Principle 10 of the Rio Declaration. It is recognised that citizens and expert NGOs acting as "watchdogs" for non-compliance and stepping in when the enforcement agency fails to act can yield effective results for the national environmental enforcement system. The need for this may arise particularly when the enforcement agency is unable or unwilling to act. Some States have established this right through expanded judicial interpretation of the Constitutional provisions for example, India and the Philippines.

States are encouraged by Principle 10 of the Rio Declaration to provide their citizens effective access to judicial and administrative proceedings including redress and remedy. Since the adoption of this Declaration, this principle has found expression in Constitutions and/or Environmental Laws in all regions of the world, both at the national and regional level. The UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (the Aarhus Convention) calls on Parties to ensure that any person who considers that his/her request for environmental information has not been satisfied as required by the convention, has access to a review procedure before a legal or administrative body.

In addition to access to justice through courts (including specialised environmental courts), citizens and NGOs often can seek redress through administrative bodies that act in a quasi-judicial manner. The Environmental Commission of Trinidad & Tobago, an example of Guideline 41(o), below, is one such example.

In addition to the case studies below, additional discussion and examples relating to judicial matters may be found following Guidelines 32, 41(a)(v), 41(c)(vi), 41(n) (especially the case study on "Canada's Environmental Bill of Rights Act"), 41(o), 43(c), 43(d), 46, and 47.



- [32]**
- [41(a)(vi)]**
- [41(n)]**
- [41(o)]**
- [41(o)]**
- [43(c)]**
- [43(d)]**
- [46]**
- [47]**



A ZAMBIAN GIRLS SCHOOL GOES TO COURT TO PROTECT ITS WATER . . . AND WINS

In 1995, the Fatima Girls School in the Copperbelt region of Zambia, sued a crude oil company (INDENI) for polluting the Munkulungwe River. The river was the source of water for the school. The school won, and court fined INDENI approximately K5.0 million (about US\$1,000).



Photo by Diane Segal

India in the rain.



SURVEY OF ACCESS TO JUSTICE IN FOUR STATES

Citizen Standing in India

The 1998 Supreme Court of India's decision *M.C. Mehta v. Union of India and Others* has adopted the concept of "citizen standing". This was done by allowing every citizen of social action group to seek judicial redress under the Constitution, for legal wrong or a legal injury caused to a person, or group of people, who by reason of poverty or disability or socially or economically disadvantaged position, are unable to approach the court for relief.

Environmental rights and jurisprudence have emerged squarely from the exercise of such citizen standing, which provided the opportunity for concerned citizens and groups to take environmental degradation and injury to the Court. The right of citizens to seek judicial redress for the enforcement of statutory obligations and duties in the interest of environment is now well recognized in India.

Access to Justice in the Philippines

In the landmark case of *Oposa v. Factoran* (1993) the Supreme Court of the Philippines advanced "The right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature", which it characterized as a "specific fundamental legal right." On these grounds, the Court recognized the concept of intergenerational responsibility, by ruling that the petitioner's children can file a class suit for themselves, for others of their generation, and for succeeding generations to preserve the country's

Survey of Access to Justice in Four States (cont'd)

tropical rainforest. "The minors' assertion of their rights to sound environment constitute the performance of their obligations to ensure the protection of that right for generations to come". Thus, the plaintiffs succeeded in the case against the Secretary of the DENR to compel him to cancel all timber license agreements in the country, as well as issuing new ones. The basis for this decision was the court's conclusion that continued felling of trees in Philippines rain forests would lead to deforestation and consequent irreparable damage, not only to those bringing the suit but to future generations as well.

Public Participation and Access to Justice in Canada

In Canada, the Ontario Province Environmental Bill of Rights (1993) establishes the basis for public participation and access to justice in environmental matters for the people of Ontario. The preamble to the legislation states that the people of that province:

- recognize the inherent value of the natural environment;
- have a right to a healthful environment; and
- have a common goal in the protection, conservation and restoration of the natural environment for the benefit of present and future generations.

While the Government has the primary responsibility for achieving this goal, the people should have means to ensure that it is achieved in an effective, timely, open and fair manner.

Part VI of the legislation provides for the "right to sue". The law states that "where a person has contravened an Act, regulation or instrument prescribed for the purposes of Part V and the actual harm or imminent contravention has caused significant harm to a public resource of Ontario, any persons resident in Ontario may bring an action against the person in the court in respect of the harm and is entitled to judgment if successful." (Section 84). The law removes certain barriers to bring an action in respect of direct economic loss or direct personal injury resulting from a public nuisance that caused harm to the environment (Section 103).

Access to Justice in Mexico

The Mexican Constitution provides for the right to a healthy environment and the right to a fair lawsuit. Should any of the constitutional rights be violated, any person is entitled to file a defense action before the Supreme Court. (Articles 4, 13, and 14). The Mexican Criminal Code, as amended in 1996, includes a new chapter on environmental transgressions according to which these conducts are criminally sanctioned. According to the Ecological Balance and Environmental Protection Act, the Ministry of the Environment can initiate criminal actions before a Prosecutor. The same right is given to any citizen who becomes aware of environmental crimes.



CITIZEN SUITS IN THE UNITED STATES

The United States has a long history of citizen suits and has influenced the trends in other parts of the world. From the outset, in the various environmental laws that were passed in the 1970s and 1980s, Congress had carved out a role for citizens and NGOs as “private attorneys-general” to pursue environmental violation cases and help ensure the implementation and enforcement of most environmental laws. Citizens also can have legal recourse to challenge environmental decisions by the U.S. Government and its agencies under the Administrative Procedures Act, and certain environmental laws grant more specific rights to seek judicial review of agency decisions.

Through “citizen-suit” provisions, citizens and NGOs can typically file suit against either government agencies at federal or state levels when they fail to take mandatory actions or against a private party for violating a specific environmental law. These provisions (for example in the Clean Water Act and the Clean Air Act) are usually designed to spur or supplement government action. The plaintiff must provide advance notice to the government and the defendant of intent to file the suit, and there is a brief period during which time the government can pre-empt the suit by filing its own enforcement action or undertaking the disputed government action. The plaintiff must still satisfy applicable standing requirements, such as the constitutional requirement of injury-in-fact traceable to a defendant’s action that can be redressed through court action. Relief is generally confined to injunctions and civil fines paid to the US government. If the citizen or NGO prevails, it frequently can recover reasonable attorneys’ fees and court costs.

In 1980, Congress passed the Equal Access to Justice Act (EAJA) which seeks to protect parties with limited resources from significant disparities in financial resources for instituting legal action. The EAJA aids eligible individuals and small entities that are parties to litigation against the government by providing award of attorney’s fees (up to US\$125 per hour) and other expenses. Any eligible party may receive an award when it prevails over the government, unless the government’s position was “substantially justified” or special circumstances make an award unjust.

Alternative Dispute Resolution (ADR) is a technique that USEPA and DOJ promote to maximise the effective use of enforcement resources and assist affected citizens who seek to improve the behavior of enterprises, so that environmental damage and/or non-compliance is prevented or resolved. Recognising that the vast majority of lawsuits in the United States are settled, USEPA’s Office of Environmental Justice (OEJ) provides training to community-based organizations in environmental dispute resolution as an alternative means to expensive and potentially divisive litigation. This training helps citizens to effectively engage in the process of environmental decisionmaking by mediation, arbitration, and other means that achieve environmentally protective outcomes without litigation.

There are many scholarly and practitioner-oriented resources on U.S. citizen suits. Some of these may be found in the case study below on “Additional Resources on Access to

Justice.”

Citizen Suits in the United States (cont'd)

See also:

Jonathan Adler, “Stand or Deliver: Citizen Suits, Standing, and Environmental Protection,” 12 *Duke Environmental Law & Policy Forum* 39 (2001), available at <http://www.law.duke.edu/journals/delpf/articles/delpf12p39.htm#FA0>

Michael D. Axline, *Environmental Citizen Suits* (1991).

Defenders of Wildlife & Center for Wildlife Law, The Public in Action: Using State Citizen Suit Statutes (2000), available at

<http://www.defenders.org/states/publications/publicinaction.pdf>

Jeffrey G. Miller & Environmental Law Institute, *Citizen Suits: Private Enforcement of Federal Pollution Control Laws* (Wiley 1987).

Ohio Environmental Council, “Guide to Clean Water Act Citizen Suits,” available at http://www.theoec.org/pdfs/cwater/cwater_pollaw_suit.pdf

State Environmental Resource Center, “Citizen Suits in States,” available at <http://www.serconline.org/citizensuits/background.html>

What is “standing” or “locus standi”?

In most States, not everyone interested in a particular legal conflict has the legal right to go to court. Generally the people who are most obviously involved in the conflict have this right. For example, people who live downwind from an industrial facility that is emitting air pollution may have standing, that is they have the right to go to court to address the pollution. However, an environmental group may not necessarily have this right unless it can prove that they should have standing (usually this means they need to prove that their members were injured in some way). In some States, though, the requirements for proving standing for certain laws are more open and virtually anyone taking an interest in environmental protection or the particular issue at hand may have the right to get legally involved.

Standing (or *locus standi*), then, relates to the legal right of a particular individual or entity (business, NGO, etc.) to go to court.



STANDING FOR A UKRAINIAN NGO BASED ON THE AARHUS CONVENTION

In Ukraine, the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (or the “Aarhus Convention”) has served as the basis for establishing locus standi of a public interest environmental law NGO. In 2003, Ecopravo-Lviv (EPL) filed cases against the Government of Ukraine challenging the Government’s decision to dig a deep-water navigation channel through Ukraine’s portion of the Danube Delta Bilateral Biosphere Reserve.

Standing for a Ukrainian NGO Based on the Aarhus Convention (cont'd)

On February 10, 2004, the Commercial Court of Kyiv rendered a decision to sustain the suit by EPL against the Ministry of Environment Protection of Ukraine. The court based EPL's locus standi on the Aarhus Convention, which Ukraine had ratified, even though the State had not yet adopted implementing legislation to guarantee locus standi to ensure access to justice. This case is expected to be published in a forthcoming UNEP compendium of judicial decisions.

The court held that the public was not given a possibility to participate in EIA and, thus, their rights were violated. Thus, the court ruled that the consent by the Ministry of Environment regarding construction of the canal was illegal and the decision was invalid.

Information on other legal actions filed before different international bodies is set forth in a case study following Guideline 17, above.



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For more information, contact Mr. Andriy Andruskevych at aandrus@mail.lviv.ua



STANDING IN TWO STATES

Standing in Australia

In New South Wales, Australia, open standing provisions have been extended to all environmental and planning statutes. In other words, an individual or organisation need not prove a personal injury or problem in order to pursue an environmental problem or violation of environmental law in court. In addition, "any person" with the leave of the court, may bring proceedings to restrain a breach of any statute, if the breach is likely to cause harm to the environment. Similar open standing provisions have been adopted by other Australian states like Queensland, Tasmania, Victoria, and South Australia.

Standing in Kenya

The traditional common-law provision limiting standing to people with a personal injury or problem has been upheld in a number of court decisions in Kenya, making redress for environmental damage difficult. In *Wangari Maathai v. Kenya Times Media Trust*, the plaintiff, the Coordinator of a local environmental NGO, sought a temporary injunction to restrain the defendant from constructing a proposed complex inside a recreational park in the center of Nairobi. The defendant raised the objection that the plaintiff lacked standing to bring the suit and the court agreed, noting that the applicant would not be affected by the construction more than any other resident of Nairobi.

Standing in Two States (cont'd)

This was again upheld in *Wangari Maathai v. Nairobi City Council* in which the plaintiff sued for a declaration that the subdivision, sale, and transfer of lands belonging to the local authority was unlawful. The court held that the applicant had no particular interest in the matter. In *Lawrence Nginyo Kariuki v. County Council of Kiambu*, this strict application of the rule governing standing was also applied in rejecting the plaintiff's application.

However, the passage of the National Environmental Management and Coordination Act 2000 has relaxed this requirement of standing. The Act provides that a person shall have capacity to bring action notwithstanding that such person cannot show that the defendant's act or omission has caused or is likely to cause him any personal loss or injury. It also provides for a right of every person to clean and healthy environment and the corresponding duty to safeguard and enhance it.



UNITED STATES: PRIVATE ACCESS TO REMEDIES

In the United States, the U.S. Constitution does not expressly create an individual right to a clean and healthy environment. However, in addition to citizen-suit provisions created by U.S. environmental and administrative laws (described above), other provisions of law may make environmental remedies available.

Six U.S. States have constitutions with language creating an individual right to a clean and healthy environment.

The 5th and 14th Amendments of the U.S. Constitution provide for equal protection under law. Affected citizens can invoke these "equal protection" provisions to bring legal actions against national, state, and local governments to ensure, for example, that basic environmental services (e.g., sewage, water, drainage, and waste disposal services) are provided without regard to race, color, or national origin.

The common law of traditional, judge-made precedential rulings may also provide a "cause of action." Citizens affected by environmental harm may seek injunctive relief and/or money damages under common-law causes of action such as nuisance, trespass, and negligence. In many cases, remedies are available for harm even if caused by an activity permitted by an environmental agency. As a practical matter, though common-law causes of action can be difficult to litigate, and are usually reserved for those particular instances when no other cause of action is available.

For more information, see Barry Hill et al., "Human Rights and the Environment: A Synopsis and Some Predictions", 16 Georgetown International Environmental Law Review 359 at 389-402 (2004).



ADDITIONAL RESOURCES ON ACCESS TO JUSTICE

Aarhus Clearinghouse for Environmental Democracy, available at <http://aarhusclearinghouse.unece.org/resources.cfm> (including case studies and analysis).

Access Initiative, available at <http://www.accessinitiative.org> (including various publications).

Carl Bruch (ed.), *The New "Public": The Globalization of Public Participation* (ELI 2002), available at http://www.elistore.org/reports_detail.asp?ID=10662.

Susan Casey-Lefkowitz et al., "The Evolving Role of Citizens in Environmental Enforcement," in Durwood Zaelke et al., *Making Law Work: Environmental Compliance & Sustainable Development*, Vol. 1, p. 559 (Cameron May 2005), reprinted and available at <http://www.inece.org/4thvol1/futrell.pdf>.

European ECO Forum, *Implementing Rio Principles in Europe: Participation and Precaution* (2001), available at http://www.participate.org/publications/Implementing_rio.pdf.

International Association for Public Participation, available at <http://www.iap2.org/> (including various publications).

Nicolas de Sadeleer, Gerhard Roller, & Miriam Dross, *Access to Justice in Environmental Matters and the Role of NGOs: Empirical Findings and Legal Appraisal* (Avosetta 2005).

Stephen Stec (ed.), *Handbook on Access to Justice under the Aarhus Convention* (2nd ed. 2003), available at <http://www.unece.org/env/pp/a.to.j/handbook.final.pdf>.

UNEP, *Law and Practice Relating to Access to Information on the Environment, Public Participation in Processes Leading to Decision-making and Access to Judicial and Administrative Procedures Relating to Environmental Matters: A Report on Models of National Legislation, Policy and Guidelines in the Africa Region, Asia and Pacific Region, and the Latin America and Caribbean Region* (UNEP 2002).

University of Victoria's Centre for Global Studies, *"Rethinking Governance" Handbook: An Inventory of Ideas to Enhance Accountability, Participation, and Transparency* (2001) available at <http://www.eldis.org/static/DOC2883.htm> (including a wide range of case studies and resource materials at the international, regional, national, and local levels).

Public Access to Environmental Information

- [41]** (j) *Public access to environmental information held by Governments and relevant agencies in conformity with national and applicable international law concerning access, transparency and appropriate handling of confidential or protected information;*

The public should be given access to environmental information that the government and relevant agencies possess, in accordance with national and international laws concerning access, transparency and appropriate handling of confidential or protected information. Empowering the citizens and NGOs with information as recommended, and involving them in decision process expands the knowledge base and resources for developing laws and policies, as well as improving compliance, implementations and enforcement of these laws.

One strategy for implementing the policy of “public access to information” (which first gained international support at the 1992 Earth Summit through the Rio Declaration Principle 10 and Agenda 21) in many States around the world is through the requirement for environmental impact assessments (EIAs). Many States in the world today have EIA laws or regulations in effect; these laws require that an environmental impact assessment be completed before an action significantly affecting the environment is undertaken. The laws also typically provide for varying degrees of public involvement: from access to the impact assessment to allowing public input and commentary on the assessment before the planned action is commenced.



LEGAL REQUIREMENTS FOR ACCESS TO ENVIRONMENTAL INFORMATION IN ROMANIA

Currently, in Romania, a range of laws and directives ensure that the public has access to information, particularly environmental information. Law No. 544/2001 guarantees free access to public interest information.

Governmental Decision No. 1115/2002, on freedom of public access to information was promulgated to transpose EU Directive 99/313 and to provide specific modalities for operationalizing Law No. 544/2001. GD 1112/2002 requires every public authority that holds environmental information to disseminate or to make available this information by request. A database containing the environmental information that is held by the public authorities is under development. Other laws mandating free access to environmental information by the public include Law No. 137/1995 on Environmental Protection, Law No. 86/2000 ratifying the Aarhus Convention, and Order of the Minister of Waters and Environmental Protection No. 1325/2000 regarding public participation, through its representatives, in the drafting of plans, programmes, policies, and legislation in the environmental field. In addition, Law No. 29/1990 provides for a contentious

Legal Requirements for Access to Environmental Information in Romania (cont'd)

administrative procedure that provides access to justice. This administrative process is also a means by which the public can enforce its right to information.

For more information, see <http://www.mappm.ro> (in Romanian, with contact information in English).



ENVIRONMENTAL INFORMATION DISCLOSURE AND PERFORMANCE RATING IN CHINA

中国绿色观察
China GW

China's State Environmental Protection Agency (SEPA) has become interested in public disclosure because China continues to face severe pollution problems, despite

long-lasting attempts to control pollution with traditional regulatory instruments. Since 1989, SEPA and its predecessor NEPA have maintained a list of enterprises with excellent environmental performance. Enterprises are listed on the recommendation of provincial environmental protection bureaus, after vetting by a national Panel of Evaluation and Assessment whose representatives come from SEPA, the General Environmental Monitoring Station of China and other ministries. By 1997 this assessment had been conducted 6 times, and 500 enterprises had been awarded the title, "Nationwide Advanced Enterprise on Environmental Protection." Over time, numerous enterprises have been removed from the list for failure to maintain standards consistent with the award. However, more than 180 enterprises have retained their excellent ratings.

Recently Chinese regulators have been influenced by the rapid spread of pollution disclosure systems in other Asian countries following pilot projects in Indonesia and the Philippines. These pilot projects were done in collaboration with the World Bank's Development Research Group (DECRG).

Since late 1998, SEPA and DECRG have worked to establish Green-Watch, a public disclosure programme for industrial polluters. Adapted from Indonesia's PROPER, the Green-Watch rates industrial environmental performance from best to worst in five colours – green, blue, yellow, red, and black. The ratings are publicly disseminated through the media. The Green-Watch draws on five principal sources of information: self-monitoring reports, inspection reports, records of public complaints, regulatory actions and penalties, and surveys that record characteristics of the firms that are relevant for rating environmental performance.

The rating system incorporates six dimensions of environmental pollution: water, air, noise, solid waste, electromagnetic radiation, and radioactive contamination. It includes emissions information for 13 regulated air and water pollutants. Pollutant discharges are rated by total quantity and concentration. Solid wastes are rated in three dimensions:

Environmental Information Disclosure and Performance Rating in China (cont'd)

production, disposal, and recycling. The rating process involves a detailed account of a firm's behaviour in several dimensions. Environmental management is graded with respect to: timely payment of pollution discharge fees, implementation of the National Pollutant Discharge Reporting and Registering Programme, the Standardized Waste Management Measures, and other administrative regulatory requirements. Internal environmental monitoring, staff training, and internal document preparation are taken into account. In addition, the rating system considers the efficiency of resource use, its technological level, and the quality of its environmental management system.

The comprehensive rating scheme allows voluntary entry and offers to participants an opportunity to discuss their rating with the authorities before it is disclosed. After being set, the ratings are sent to the programme's Steering Board for final checking and ratification prior to public disclosure. To ensure accurate press reports, journalists are invited to a detailed presentation on the programme, including an explanation of the rating system and demonstration of the software that is used for ratings development.

Two municipal-level pilot Green-Watch programmes have been implemented. Reaction to these programmes has been positive, and SEPA plans to launch pilot programmes in other areas, in preparation for nation-wide implementation of public disclosure.

For more information, see <http://www.oecd.org> or contact Krzysztof.MICHALAK@oecd.org



PUBLIC ACCESS TO INFORMATION IN BULGARIA

Bulgaria has developed and implemented legal, institutional, and practical measures to ensure public access to environmental information. The Environmental Protection Law, the Access to Public Information Act, the Statistics Act, the Law on Administrative Proceedings, and various specialised environmental laws ensure a legal right to access to information on the environment.

Many of these laws were passed before Bulgaria ratified the Aarhus Convention. In this sense, the process by which Bulgaria ratified the Aarhus Convention demonstrates a new approach by the Ministry of Environment and Water (MOEW) to reviewing the existing legislation relevant to an MEA and developing the necessary implementing legislation before ratifying the MEA.

The legislation stipulates that institutions that collect and keep information on the environment must provide it to the public, and the person or organisation requesting the information does not need to prove any special interest in the information. MOEW,

Public Access to Information in Bulgaria (cont'd)

the Executive Environment Agency (EEA), and Regional Inspectorates on Environment and Water (RIEWs) provide access to information on the environment through:

- information centres;
- a daily bulletin on ambient air quality and radiation in the country (provided to the Bulgarian Information Agency);
- quarterly bulletins and an annual bulletin on the state of the environment based on the information of the National Automated System on Environment Monitoring. The MOEW works with other governmental institutions to prepare an annual report on the state of the environment. This report is subject to approval by the Council of Ministers and adoption by the Parliament;
- monthly bulletins from MOEW with information about important environmental events, recently adopted legal documents, implemented projects, fines imposed on companies, international events, important forums, issued permits, and EIA decisions;
- web pages (in Bulgarian and English) maintained by MOEW and EEA that contain topical information, adopted programmes, implemented actions in the field of European integration and international cooperation; and
- regular press-conferences with representatives of mass-media on issues of public interest.

The MOEW has a public information department. The Ministry's information unit coordinates activities in the field, maintains databases, and has an information centre accessible to the public. In order to improve the access to environmental information at regional level, centres have been created in the Regional Inspectorates of Environment and Water (15 in total). All RIEWs and River Basin Directorates also have web pages and public Internet access.

The National Catalogue of Data Sources managed by the EEA forms the basis for the public environmental information system. It is being developed as a portal for the 50 or so sources it contains, all of which are publicly available, and up to 30 of which are described as important. RIEWs provide information on the control process. They give access to inspection plans when requested. RIEWs also hold weekly press reviews of inspection results.

*For more information, see <http://www.moew.government.bg>
or contact IlievaNelly@moew.government.bg*



MACEDONIA'S PUBLIC RELATIONS OFFICE

Macedonia established its Public Relations Office in 1999 to promote public education and access to information. It seeks to support the constitutional right of each individual of present and future generations to live in an environment friendly to his or her health and well-being, as well as to implement aspects of the Aarhus Convention.

The Public Relation Office provides a formalized institutional link between the Ministry of Environment and Physical Planning (MOEPP) and the public. The Office seeks to facilitate communications between the Government and the public in both directions; that is, it disseminates governmental information to the public and receives information and comments from the public. It manifests – and promotes – the governmental policy that environmental information is inherently public. In particular, the Public Relations Office seeks to:

- Ensure transparency and public access to information on various aspects of the environment;
- Promote environmental education to improve public awareness, through participation in different scientific and educational programmes;
- Provide accurate and timely information to the public regarding environmental actions and activities (including successful environmental initiatives) undertaken by citizens, NGOs, and governmental institutions;
- Increase public awareness and understanding of major environmental problems and options for possible solutions, with the aim of improving environmental conditions;
- Receive information from citizens and organizations possessing personal and specialised knowledge on natural resources and on environmental problems that cannot be obtained otherwise;
- Disseminate information on decisions made regarding environmental priorities and solutions reflecting public opinion;

*Ministry of Environment and Physical
Planning, Macedonia*



*The Public Relations Office of the Ministry
of Environment and Physical Planning,
Macedonia.*

Macedonia's Public Relations Office (cont'd)

- Develop a network of individuals to be involved actively in resolving environmental problems; and
- Build support for specific environmental programmes or policies.

The Public Relation Office is open to the public every day from 8:00 to 16:00. For more information, see <http://www.moe.gov.mk> or contact Mrs. Bilijana Siderovska, Head of the PRO, at infoeko@moe.gov.mk



SOME NATIONAL ENVIRONMENTAL INFORMATION ACCESS LAWS AND PROCEDURES

Korea's Law for Public Information.

The Republic of Korea is one of the first States in the Asian region to have a Law for Public Information, which was adopted in 1996. The government regularly publishes several environmental indicators on water and air quality. The government also distributes a White Paper on the Environment to some 160 private organisations and issues a monthly Environmental Information Bulletin.

Uganda's National Environmental Information Centre.

Uganda's government-run National Environmental Information Centre (NEIC) produces and disseminates a range of information products, in the form of statistics, issue-based, sectoral, and State-of-the-Environment Reports and public information products, both as documents, and increasingly electronically, through the internet.

Canada: The Ontario Environmental Bill of Rights (EBR).

The EBR gives residents of the Province of Ontario the right to participation in government decision-making on matters that could affect the environment. The Act applies to prescribed Ministries and legislation's relating to environmental matters. It establishes a means of giving information about the environment to the public. Under the provisions of the EBR, prescribed Ministries are required to post notices on the Environmental Registry (ER) of any proposal that may be environmentally significant. Notices placed on the ER by all prescribed Ministries may be viewed on the internet by making selection on the EBR Search page. The EBR sets out the minimum level of public participation that must be met before the government of Ontario makes decisions on certain kinds of environmentally significant proposals for policies, Acts, regulations and instruments.



REGIONAL ACCESS TO ENVIRONMENTAL INFORMATION INITIATIVES

States in every region of the world have specific laws expressly recognizing the right to environmental information or giving public access to information. Moreover, in the last decade there have also been some regional initiatives, for example:

- UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters adopted at Aarhus, Denmark, June 25, 1998 (the Aarhus Convention, which entered into force Oct. 30, 2001).
- North American Agreement on Environmental Cooperation (NAAEC) September 8-14, 1993, entered into force January 1, 1994. (The NAAEC promotes transparency, participation and accountability in North America.) The North American Commission for Environmental Cooperation (CEC), a regional body established under NAAEC, promotes public involvement and provides a forum in which the citizens of the three States the United States, Canada, and Mexico can complain that a member state is failing to enforce its environmental laws.
- Memorandum of Understanding (MOU) between the Republic of Kenya, the United Republic of Tanzania and the Republic of Uganda for Cooperation on Environment Management. Nairobi, October 22, 1998 (East African MOU).

For more information, see Carl Bruch (ed.), The New "Public": The Globalization of Public Participation (ELI 2002), available at

http://www.elistore.org/reports_detail.asp?ID=10662



FREEDOM OF ACCESS TO ENVIRONMENTAL INFORMATION IN THE UNITED STATES

The rule of transparency with limited or temporary exceptions applies to U.S. environmental enforcement matters. This is mandated by the Freedom of Information Act (FOIA), a national law that guarantees quick and low-cost public access to most official records. There are some specific exceptions for information relating to national security, personnel files (to protect employee privacy), and the identities of confidential informants. Enforcement files of government investigations of violations cannot be disclosed prematurely (so that evidence is not destroyed and witnesses and investigators are not jeopardized), but this information generally must be disclosed after the case is presented publicly in court or otherwise concluded.

One important and widely used mechanism for making pollution-control compliance and enforcement information publicly available is the Enforcement and Compliance History Online (ECHO). ECHO is a Web-based source of such information for

Freedom of Access to Environmental Information in the United States (cont'd)

approximately 800,000 facilities around the nation that have permits issued by the U.S. Environmental Protection Agency (USEPA). These include facilities owned by U.S. enterprises and by foreign enterprises doing business in the United States.

Anyone in the world can use ECHO to determine whether environmental compliance inspections have been conducted by USEPA, state, or local government, and whether violations were detected, enforcement actions taken, and penalties assessed. U.S. pollution-control compliance history could be of particular interest and importance to another nation if a business entity with a record of serious violations in the United States is seeking to locate potentially polluting facilities in the other nation. Such information could also be used to determine whether a business entity in another State that violated its environmental laws has a similar record in the United States (and thus may be in effect a repeat offender), or if the business generally complies with environmental laws (and thus may have simply had some bad luck). Such information is typically used in determining the nature and scope of an appropriate penalty.

For more information, see <http://www.epa.gov/echo/>



USING THE INTERNET TO DISSEMINATE LAWS AND SEEK PUBLIC COMMENT IN CROATIA

The Republic of Croatia has availed itself of opportunities presented by the Internet for disseminating information and engaging the public in legal development. The official web page of the Ministry of Environmental Protection, Physical Planning and Construction of the Republic of Croatia (<http://www.mzopu.hr>) includes all laws and regulations within the competence of the Ministry, namely those relating to the environment, physical planning, construction, housing, and municipal economy.

This web site also includes a dialogue box, in which the Ministry posts proposed regulations early in the drafting stages. Through this process, the Ministry provides opportunities for public participation in regulatory drafting. This is done for all regulations under the Ministry's competence, including environmental regulations implementing MEAs.

For more information, contact Ms. Nataša Kačić-Bartulović at natasa.kacic-bartulovic@mzopu.hr



Additional Resources On Access To Information

- Aarhus Clearinghouse for Environmental Democracy*, available at <http://aarhusclearinghouse.unece.org/resources.cfm> (including case studies and analysis on access to environmental information).
- Access Initiative*, available at <http://www.accessinitiative.org> (including various publications).
- Carl Bruch (ed.), *The New "Public": The Globalization of Public Participation* (ELI 2002), available at http://www.elistore.org/reports_detail.asp?ID=10662.
- Environmental Working Group, available at <http://www.ewg.org/>.
- European ECO Forum, *Implementing Rio Principles in Europe: Participation and Precaution* (2001), available at http://www.participate.org/publications/Implementing_rio.pdf.
- International Association for Public Participation*, available at <http://www.iap2.org/> (including various publications).
- Fe Sanchis-Moreno, *Good Practices in Access to Environmental Information* (1999), available at <http://www.terracentro.org/Terraweb/Doc-en/BP-en.pdf>.
- Peter H. Sand, "The Right to Know: Environmental Information Disclosure by Government and Industry," in Durwood Zaelke et al., *Making Law Work: Environmental Compliance & Sustainable Development*, Vol. 2, p. 17 (Cameron May 2005).
- Jerome Simpson (ed.), *Snapshot of Environmental Information Systems in South Eastern Europe: Current Progress and Future Priorities* (2003), available at <http://www.rec.org/REC/Programs/REReP/InformationSystems/Summary.html>.
- UNEP, *Law and Practice Relating to Access to Information on the Environment, Public Participation in Processes Leading to Decision-making and Access to Judicial and Administrative Procedures Relating to Environmental Matters: A Report on Models of National Legislation, Policy and Guidelines in the Africa Region, Asia and Pacific Region, and the Latin America and Caribbean Region* (UNEP 2002).
- University of Victoria's Centre for Global Studies, *"Rethinking Governance" Handbook: An Inventory of Ideas to Enhance Accountability, Participation, and Transparency* (2001) available at <http://www.eldis.org/static/DOC2883.htm> (including a wide range of case studies and resource materials at the international, regional, national, and local levels).

Processes for Public Participation

[41] (k) *Responsibilities and processes for participation of the appropriate community and non-governmental organizations in processes contributing to the protection of the environment; Community groups and NGOs have a great deal to offer in terms of supporting enforcement efforts at the local and national level, particularly given their knowledge of their respective communities. By providing procedures for participation by these groups in environmental matters, States can improve their enforcement capabilities.*

In UNEP, the NGO/Civil Society Unit in the Division of Policy Development and Law forges partnership with these major groups throughout the world to (i) enhance their capacity to address environmental challenges, and (ii) facilitate their participation in various forums where they are given opportunity to voice their opinions with a view to creating synergies with governments to promote better environmental protection and governance.

A number of national laws and MEAs provide for participation of communities, NGOs, and other members of the public to participate in activities relating environmental management and protection. For example, the Aarhus Convention provides framework requirements for public participation in decision-making on projects, plans, programmes, policies, and legislation. The following pages include examples of public participation in various stages of environmental management from around the world.

CH II - D

Public Participation in Projects



[42(a)]

[42(b)]

[44]

In addition to the case studies below, additional examples of public participation in projects can be found following Guideline 42(a) (especially the case study on “Implementing MEAs in the Decentralized Context of Benin”), as well as Guidelines 42(b) and 44.



CAMEROON'S NATIONAL PROJECT FOR PARTICIPATORY DEVELOPMENT

Within the framework of its National Poverty Reduction Strategy, Cameroon has launched a National Project for Participatory Development (known by its French acronym, PNPD) that decentralises various public services. The project seeks to alleviate poverty at the grassroots level. It does so by addressing five aspects: agricultural and pastoral development, the environment, water and forests, agronomic research, and protection of civil society. Currently, five provinces of the State are participating in the project.

The PNPD seeks to promote the development of human capacity, establishment and effective operation of institutions (including professional organisations, professional and associative structures, local collectives, and administrations), and policy development, implementation, follow-up, and assessment.

In particular, the PNPD advances five specific objectives. The PNPD supports the development of agricultural, environmental, and protective policies within the context of Cameroon's Poverty Reduction Strategy Paper (PRSP). The PNPD also seeks to facilitate the modernization of Governmental administration and approaches, strengthening the capacity of civil society, and support technical, social, and organisational innovations. Finally, the PNPD seeks to promote the development of Cameroon's national capacity to better participate in international dialogues, negotiations, and processes relating to agriculture and the environment (including the agricultural agreement of the WTO, Congo Basin forest initiatives, etc.).

The main partners in the PNPD are the national Government administrations, civil society, and public and quasi-public institutions. The relevant Government administrations include the Ministries of Agriculture, Water, Environment, Forests, Planning and Regional Development, etc. Civil society organisations include professional agricultural organisations, vocational organisations, NGOs, and agro-industrial enterprises. The public and quasi-public institutions include the Institute of Agricultural Research for Development (IRAD), the Agronomic Faculty of Science (FASA), the national organisation of firefighters and sappers, etc.

The PNPD is coordinated by an attaché and includes 14 technical personnel. These personnel provide advice, conduct research, and are responsible for projects. The PNPD works with decentralised administrations through projects that are identified as priorities by local institutions. These projects emphasize the wellbeing of the local communities. These projects have great promise, since they respond to specific needs that are articulated by the communities they serve, rather than being imposed on the populations concerned, and the projects are managed by representatives who are close to the local communities.

For more information, see <http://www.spm.gov.cm> or contact Mr. Jean-Guy Motto Mallo mottomallo@yahoo.fr or Ms. Mary Fosi mary_fosi@hotmail.com

Public Participation in Projects – Environmental Impact Assessment

Environmental impact assessment (EIA) procedures typically provide an opportunity for the public to participate in decisionmaking processes related to the development and implementation of projects. The specific procedures vary from State to State. Generally speaking, EIA is a process by which the government seeks to determine the potential impacts (usually environmental, but also possibly social and economic) of a proposed project. EIA laws usually provide members of the public with the opportunity to review a draft EIA report, comment on it, and have the drafter of the EIA consider their comments. The public may also have the opportunity to participate early in the assessment process, during the scoping phase.



ENVIRONMENTAL IMPACT ASSESSMENT (EIA) PROCESS IN CAMEROON

In Cameroon, Decree N°2005/0577 of 23 February 2005 governs environmental impact assessments (EIAs). There are two types of EIAs in Cameroon: summary and detailed. The conduct of an EIA is mandatory for specific development projects; and these categories of development projects are listed by an order of the Minister in charge of the environment. The basic EIA procedure is as follows:

- The promoter of the project deposits a file of the proposed project with the competent Ministry (depending on the nature of the project) and another file at the Ministry in charge of environment, against a receipt;
- The technical Ministry transmits the file to the Ministry in charge of the environment, giving its reasoned opinion on the terms of reference of the study. If the Minister in charge of environment has no comments, the promoter may consider the terms of reference for the study to be accepted;
- The EIA report for the proposed project is completed according to the terms of reference;
- The promoter deposits the EIA report of the proposed project at the competent Ministry and the Ministry in charge of environment;
- Upon the receipt of the EIA report, each Ministry creates a team to verify, gather opinions of concerned populations, and draft an evaluation report which is transmitted to the Inter-Ministerial Committee on the Environment;
- The competent Ministry sends a copy of its opinion to the Ministry in charge of environment;
- The Ministry in charge of environment deliberates and issues its opinion regarding the acceptability of the EIA report, and it notifies the promoter of its acceptance or its request for correction. If there is silence on the part of the Ministry in charge of environment, the EIA report is presumed to have been accepted;
- The Ministry in charge of environment transmits to the Inter-Ministerial Committee on the Environment the files considered admissible, including the EIA report that has been declared acceptable, the impact study

Environmental Impact Assessment (EIA) Process in Cameroon (cont'd)

evaluation reports, and the evaluation reports and registers of consultations and public audiences;

- The Inter-Ministerial Committee gives its opinion on the impact study.
- Upon receipt of the opinion of the Inter-ministerial Committee, the Minister in charge of environment then issues its decision on the EIA report either by:
 - granting a favourable decision;
 - giving a conditional decision; or
 - giving an unfavourable decision, which means the that the project cannot be executed; and
- The favourable decision becomes time-barred if the promoter does not start executing the project within three years.

While the EIA process in Cameroon is similar to that in many States, two aspects are particularly important. First, the Inter-Ministerial Committee on the Environment plays a key role in coordinating the process; and second, opportunities are provided for public review and comment on the draft EIA. The Inter-Ministerial Committee on the Environment includes the Ministry of Environment and Nature Protection (MINEP) and other technical ministries. The Deputy Minister (Ministre Délégué) of MINEP presides over the Committee.

There is a public participation process by which MINEP consults with the local communities in the area near the planned site for the project. NGOs are included in the public participation process, and the public is informed several weeks before the actual date of the consultation, so that they have an opportunity to review the draft EIA and to prepare their comments. The results of the consultation are forwarded to the Inter-Ministerial Committee on the Environment.

The opportunities for public involvement in the EIA process are usually undertaken through a public hearing process that brings together the various stakeholders, including the neighboring and affected communities, who understand the social, economic, and ecological aspects of the area. Issues emerging from the public participation process are integrated into the project environmental management plan, for example for monitoring of the impacts.

For more information, see <http://www.spm.gov.cm> or contact Ms. Prudence Galega galegapru@yahoo.com or Mr. Samson Neckmen s_neckmen@hotmail.com



ADDITIONAL RESOURCES ON ENVIRONMENTAL IMPACT ASSESSMENT

- I. Guijt, *Participatory Monitoring and Impact Assessment of Sustainable Agriculture Initiatives: An Introduction to the Key Elements* (IIED 1998).
- Jane Holder, *Environmental Assessment: The Regulation of Decision Making* (Oxford University Press 2004).
- International Association for Impact Assessment web site, available at <http://www.iaia.org>.
- Betty Bowers Marriott, *Environmental Impact Assessment: A Practical Guide* (McGraw-Hill 1997).
- Prasad Modak & Asit K. Biswas, *Conducting Environmental Impact Assessment for Developing Countries* (UNU Press 1999) (reviewing EIA process, methods, and tools for drafting, assessing, conducting, and monitoring EIAs).
- Peter Morris, *Methods of Environmental Impact Assessment* (2nd ed.) (Spon Press 2001).
- Judith Petts (ed.), *Handbook of Environmental Impact Assessment: Process, Methods, and Potential* (Blackwell 1999) (considering EIA practice from Africa, the Americas, Asia, and Europe).
- Southern African Institute for Environmental Assessment web site (including *Environmental Impact Assessment in Southern Africa*, a 352-page book with case studies and methodologies; case studies; Generic Terms of Reference templates for public participation in an EIA; and other resources), available at <http://www.saiea.com/>.

Public Participation in Developing Legislation

A number of States allow the public to participate in developing legislation. While this is a general provision (where it exists), it applies also to the context of legislation implementing MEAs. In some States – for example, in certain States in Latin America – citizens and NGOs have submitted legislation. In some instances, the legislation prompted the Government to develop its own draft legislation on the topic and submit it to the legislature (Parliament, National Assembly, Congress, etc.) for consideration. In other instances, the draft legislation submitted by citizens was in addition to a bill that had been proposed by the Government or Member of Parliament. In certain instances, the two bills were merged, with contributions coming from both the Government and from civil society.



PUBLIC PARTICIPATION IN DEVELOPING LAWS AND REGULATIONS IN GEORGIA

In Georgia, it is established practice that draft laws and regulations are published and publicly debated. By law, all regulations must be issued through a Public Administrative Proceeding, and the public must have an opportunity to participate in the proceeding. The proceeding is as follows:

- The announcement about the launching of the Administrative Proceeding must be published;
- The draft of the regulation (a normative act) must be published also;
- 20 working days must be provided to the public for consideration;
- A hearing is held. In this hearing, participants should be given an opportunity to be acquainted with the proposed regulation and to suggest possible modifications;
- The responsible Governmental authority must consider public opinion in making its final decision; and
- The adopted regulation (a normative act) must be published.

There are also regular meetings at the Ministry of Environment with NGOs to exchange information and to consult while making decisions and considering draft laws and regulations that have been prepared by the Ministry of Environment.

For more information, contact Mrs. Nino Gokhelashvili at gmep@access.sanet.ge



CITIZENS SUBMISSION OF DRAFT LAWS IN BRAZIL

In Brazil, draft laws may be proposed by a number of different people. These include, for example the legislators (Deputies and Senators), the President of the Republic, the President of the Federal Supreme Court, the Superior Tribunals, the General Public Prosecutor of the Republic, and civil society groups. Several draft laws submitted by Members of Parliament have been presented to them by NGOs.

One example of a draft law submitted by an NGO (through competent offices) is Federal Law No. 9985, of July 18, 2000, which established the National System of Nature Conservation Areas. In order to promote a nation-wide discussion about the draft law, the Government and civil society organizations convened a series of workshops and public consultations. Following this process, a consensus draft was submitted to the National Congress. The resulting law supplements Brazil's Environmental Law, with the particular aim of improving the management, public policies, and enforcement relating to Brazil's protected areas.

For more information, see <http://www2.camara.gov.br/english> or contact raquel.breda@mma.gov.br, maria-carolina.hazin@mma.gov.br, or larissa.godoy@mma.gov.br

Public Participation in the Development of Plans and Programmes

Similar to the way that EIA provides opportunities to participate in decisionmaking related to projects, strategic environmental assessment (SEA) and other procedures allow members of the public opportunities to participate in the development of plans and programs.



ROMANIA'S EXPERIENCE WITH LOCAL AGENDA 21

In Romania, the Local Agenda 21 (LA21) process is crucial in linking national and local levels in promoting sustainable development at all levels. The LA21 process delivers the messages and practices of sustainable development to the local level. It also serves as a mechanism in assuring that citizens play an active and meaningful role in Romania's economic recovery and development. It also provides an avenue for implementing MEAs, particularly where local implementation is essential to an MEA's success.

In 1999, Romania adopted a long-term National Sustainable Development Strategy (NSDS) and subsequently prepared a National Action Plan for implementing the NSDS and introducing the LA21 process in the country.

Romania's Experience with Local Agenda 21 (cont'd)

In Romania, the LA21 process is a partnership of institutions at the local, national, and international levels. The key partners are the Ministry of Waters and Environment Protection; Ministry of Public Administration; Ministry of Public Works, Transportation and Housing; Ministry of Development and Planning; Romanian Federation of Municipalities; and the United Nations Development Programme (UNDP). Together, these institutions promote LA21 through the "National Center for Sustainable Development" Project (NCSO), and all of the institutions are part of the National Steering Committee for Local Agenda 21. The National Steering Committee guides the LA21 process, enhances opportunities for mobilizing resources and information, and coordinates the LA21 efforts of national and international organisations and donors. The NCSO also supports the training and cooperation of the different stakeholders, assists the elaboration and implementation of LA21 Pilot Projects in thirteen counties, and ensures the dissemination of the information and best practices.

As a pilot test, LA21 processes were conducted for nine municipalities initially (Targu Mures, Oradea, Iasi, Ramnicu Valcea, Ploiesti, Galati, Giurgiu, Miercurea Ciuc, and Baia Mare). During the 2004-2007 period, LA21 will be extended to 50 municipalities.

Local Agenda 21 seeks to strengthen the capacity of the Government and the public, particularly at the local level, to adopt principles of sustainable development into national and local development strategies and action plans, as well as to promote local participatory development planning and LA21 processes. The LA21 process emphasises capacity building, and it includes seven stages for elaborating and implementing LA21s. These stages are:

- Stage 1:** Establish the organisational and technical framework of the LA21 projects in the pilot cities. This stage includes the launch of: Local LA21 Secretariats (to coordinate work, provide information, and serve as a link between citizen groups and municipal governments); Local Steering Committees (voluntary bodies that provide direction and set priorities for the projects); and Working Groups (consisting of experts from different fields and sectors that identify priority issues for a LA21 project to address).
- Stage 2:** Provide training for members of the Secretariat and the coordinating national organisation to help them manage the LA21 projects.
- Stage 3:** Prepare Local Agenda 21 Strategies and Implementation Plans for the cities, based on the Working Group recommendations, through a multi-stakeholder participatory process.
- Stage 4:** Awareness campaigns. Each pilot city publishes and disseminates a leaflet that presented details of the LA21 process, including the management structure. A card is contained in each leaflet, which the public can fill in and return (postage paid) to the Local Secretariat. In this way, opinions and ideas from the members of the community can be taken in consideration in the process of designing future development strategies at the local level.
- Stage 5:** Participatory process. The LA21 draft produced by the Working Groups is disseminated widely (in electronic format, hard copy, and through the media) in the pilot cities, providing all members of the community the

Romania's Experience with Local Agenda 21 (cont'd)

possibility to express their opinions, ideas, and criticisms. Their comments and recommendations were taken into account in the final LA21.

Stage 6: Provide training for all interested local participants in the LA21 process to help them implement the strategies and manage the first micro-pilot projects.

Stage 7: Selecting and implementing the first micro-pilot projects to demonstrate local capacities to manage LA21 projects.

The LA21 process has promoted local participation in planning and implementation. It also has facilitated communication by sharing results, lessons learnt, and best practices to improve and broaden the scope of development strategies and action plans. The LA21s grew from local needs and ideas, and the product is evidence of their efforts, energy, and enthusiasm. The LA21 process follows the principle of "thinking globally and acting locally," and it establishes a bottom-up link between the local needs and national trends. This creates an enabling environment for implementing MEAs and for realizing sustainable development in the country.

For more information, see <http://www.mappm.ro> or <http://www.undp.or> or contact either legis2@mappm.ro or sdnp@sdnp.ro

Many MEAs provide for national implementation plans, priority-setting exercises, and other processes that explicitly or implicitly are best conducted with the participation of affected individuals, organisations, and businesses. These include, among others, the Convention on Biological Diversity and the Convention to Combat Desertification. Following is an illustrative example from Trinidad & Tobago on the participatory development of the country's National Biodiversity Strategy and Action Plan (NBSAP) required under the CBD.

Many other States have gone through similar processes in developing their own NBSAPs, and there are a number of other activities relating to NBSAPs. For example, the CMS Secretariat and the CBD Secretariat are developing guidelines for integrating issues relating to migratory species into NBSAP processes. This project is being undertaken in conjunction with the United Nations University. The guidance, which will be supplemented with real-world case studies, will lead to the publication of guidelines.



A PARTICIPATORY PROCESS FOR DEVELOPING TRINIDAD & TOBAGO'S NBSAP

Having ratified the CBD in 1996, Trinidad and Tobago was obliged under Article 6 of the Convention to develop a National Biodiversity Strategy and Action Plan (NBSAP). A multi-sectoral task force, comprising stakeholders from government, CBOs, NGOs, research institutions, and UNDP, and chaired by the Environmental Management Authority (EMA) was appointed to oversee the NBSAP project.

The task force established a Project Team, which comprised a team leader, project assistant and six sector specialists in the areas of flora, fauna, agriculture, coastal and marine biodiversity/fisheries, tourism, and industrial and environmental management. Sector specialists were charged with the responsibility of assessing and analysing each sector's impact on biodiversity and its conservation. This stocktaking exercise commenced the consultative process for the development of the NBSAP.

The consultative process was designed to be highly participatory in nature, and toward this end it involved a series of sensitisation sessions and workshops over a period of eleven months. In October 1998, orientation sessions were held for the task force, the project team, environmental officers from all the ministries, selected stakeholders (including NGOs and CBOs), and secretaries of the Tobago House of Assembly (THA). In January 1999, one-day informational and sensitization sessions were conducted for parliamentarians, government ministers, senators, permanent secretaries, and secretaries of the THA. In February and March, twelve contact group workshops were held with stakeholders from each sector, including NGOs, CBOs, business and corporate sectors, ministry personnel, private enterprise, and other individuals contacted by the sector specialists in the assessment and information gathering phase. Each report was reviewed by its stakeholder group. In May, background information on the NBSAP and the priority issues from the contact group workshops were incorporated into an issues report booklet and circulated through a series of thirteen public consultations. Ideas, suggestions and recommendations from the sector specialists' reports, contact group workshops and public consultations were then integrated to address the strategies and actions that the State should adopt in planning for the sustainable use and management of its biodiversity strategies. Finally, the national public consultation was held in August 1999. More than 100 persons attended, including representatives of NGOs, CBOs, the media, ministries and government agencies, stakeholder organisations, the political directorate, and tertiary education and research institutions.

For more information, contact Mr. Alvin Pascal at alvinpascal@hotmail.com. For more information on the NBSAP process, see the case study following Guideline 14(b), above.



[14(b)]



Additional Resources on Public Participation in the Development of Plans and Programmes

IIED, *An Activist Approach to Biodiversity Planning: A Handbook of Participatory Tools Used to Prepare India's National Biodiversity Strategy and Action Plan* (IIED 2005).

IIED, *Décentralisation et Participation Citoyenne: Evaluation Participative de la Décentralisation et Amélioration de la Transparence Budgétaire* (IIED 2005) (drawing upon experiences in rural municipalities in Senegal, this report surveys mechanisms to involving citizens in decentralisation programmes, including gender-sensitive approaches, citizen juries, forums for public debate, tracking public expenditure, the national budget, participatory budgeting, and participatory monitoring of public programme performance).

IIED, *Participatory Learning and Action: Civil Society and Poverty Reduction* (IIED 2005) (highlighting experiences of civil society organisations in developing countries that are engaged in the monitoring, evaluation, and implementation of poverty reduction strategy processes).

See also the text following Guideline 21 (on national implementation plans).

Public Participation in Implementing MEAs



[41(a)(iii)]

[42(b)]

[48]

In addition to the case studies that follow regarding public participation in MEA implementation, see the case study on “Public-Private Dialogues in Brazil” as well as the other case studies following Guideline 42(b); the case study on “Brazil’s Participatory Process for Gathering Information on Biodiversity” following Guideline 41(a)(iii); and the case study on “Benin’s Experience with International Cooperation in Managing Protected Areas” following Guideline 48.



NGO INVOLVEMENT IN ROMANIA’S NATIONAL COMMISSION ON CLIMATE CHANGE

Several NGOs involved in climate change activities have been invited to participate in the regular meetings of Romania’s National Commission on Climate Change (NCCC). The members of the NCCC usually discuss the latest information concerning climate change activities. They also assess proposals to be developed as Joint Implementation projects under Article 6 of the Kyoto Protocol, based on Romania’s cooperation with different Annex I parties. NGO representatives also are invited to present the findings of studies they have performed and activities they have implemented. In these discussions, NGOs have focused on engaging in a constructive dialogue with the Government: in addition to identifying problems, they offer solutions. As a result, their participation has been particularly professional and constructive. For example, at a meeting of the NCCC in 2004, a representative of the NGO Terra Mileniul III proposed starting a partnership between this NGO and the Ministry of Environment and Water Management in the field of climate change.

In a related project, the Ministry of Environment and Water Management in

NGO Involvement in Romania's National Commission on Climate Change (cont'd)

cooperation with the Danish Environmental Protection Agency will develop in the near future a web page on climate change activities, with a view to increase public awareness and the involvement of the public and NGOs in the climate change process. This web page will also provide a medium for better communication among the stakeholders in this field in Romania.

For more information, see <http://www.mappm.ro> or http://terraiii.ngo.ro/n_en.htm or contact dmereuta@mappm.ro



PUBLIC PARTICIPATION IN INTERNATIONAL FORUMS

Many international environmental institutions and MEAs provide for public participation in the negotiation, implementation, and enforcement of MEAs. In addition, there are ongoing efforts to promote public participation in these international forums. One such example comes from the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (or "the Aarhus Convention"):

Guidelines on Promoting the Application of the Principles of the Aarhus Convention in International Forums

In 2005, the second Meeting of the Parties (MOP) of the Aarhus Convention adopted Guidelines on Promoting the Application of the Principles of the Aarhus Convention in International Forums. These non-binding Guidelines are designed to assist Parties to the Aarhus Convention to promote public access to information, public participation, and access to justice in international environmental decision-making processes. The Guidelines provide such assistance on both procedural matters (e.g., development and application of rules of procedure) and how substantive matters are addressed in those forums.

These Guidelines respond to a need articulated in Article 3(7) of the Aarhus Convention that Parties to the Convention promote the application of the Convention's principles in "international environmental decision-making processes and within the framework of international organisations in matters relating to the environment."

This obligation applies to the individual Parties to the Aarhus Convention, and not to the international bodies or processes. However, the Parties to the Aarhus Convention have committed to promoting transparency, public participation, and accountability in international processes, and the Guidelines seek to facilitate this process.

For more information, see

<http://www.unece.org/env/pp/mop2/mop2.decisions.htm> (Decision III/4) or <http://www.unece.org/env/pp/> (for information on the Aarhus Convention).



Additional Resources On Public Participation In International Forums

For more information on specific approaches and requirements for involving the public in international environmental processes, see for example:

Carl Bruch et al. (eds.), *Public Participation in the Governance of International Freshwater Resources* (UNU Press 2005).

Carl Bruch (ed.), *The New "Public": The Globalization of Public Participation* (ELI 2002), available at http://www.elistore.org/reports_detail.asp?ID=10662.

Ecologic and FIELD, *Participation of Non-Governmental Organisations in International Environmental Cooperation: Legal Basis and Practical Experience* (2002), available at <http://www.ecologic.de/modules.php?name=News&file=article&sid=568>.

UNECE, *Public Participation in International Forums*, <http://www.unece.org/env/pp/ppif.htm>.

Public Participation in Enforcement

There are many ways that the public can participate in enforcement, from monitoring and reporting violations, to assisting in investigations, and bringing suit. In addition to the case studies below, the case studies and resources following Guideline 41(i) provide additional information on public involvement in enforcement processes.



PUBLIC AND PRIVATE ENFORCEMENT OF THE WILDLIFE ACT IN THE PHILIPPINES

In the Philippines, the Wildlife Act mandates three agencies with responsibility for implementing the Philippine commitments to MEAs relating to the protection of wildlife and their habitats. The Act therefore serves as the enabling legislation for all MEAs on biodiversity to which the Philippines is a party. It, however, did not specifically name the MEAs so as to provide flexibility: in the future, the Philippines may wish to consider becoming a party to other biodiversity-related MEAs, and this legislation will continue to provide the implementing mandate for those MEAs.

The three agencies mandated to implement the Wildlife Act jointly issued Implementing Rules and Regulations of the Act. These Implementing Rules and Regulations clarify the roles of the respective implementing agencies on various matters covered by the law. The deputation of Wildlife Enforcement Officers is one of these concerns, and the rules provided for the qualifications, duties, and responsibilities of the deputized officers. With regard to the specific deputation procedures, each of the agencies is expected to provide their respective guidelines based on their internal policies.

A significant aspect of the Act and Implementing Rules and Regulations is that they foresee the deputation of private volunteers and citizen groups as Wildlife

Public and Private Enforcement of the Wildlife Act in the Philippines (cont'd)

Enforcement Officers to assist in the enforcement of the Act. Initial focus is now on raising awareness of the governmental enforcement officers of the new wildlife policies and procedures. Systematic deputation of private actors is expected to happen in 2004 or 2005.

Under the Wildlife Act and the Implementing Rules and Regulations, governmental and private wildlife enforcement officers have the powers to:

- Seize illegally collected, possessed, and/or traded wildlife, or parts, by-products, and/or derivatives thereof;
- Arrest (even without warrant) any person who has committed, is committing, or is about to commit in the officer's presence any of the offenses provided under the Wildlife Act and other relevant laws, rules and regulations;
- Assist in conducting surveillance of and monitoring wildlife-related activities;
- Deliver an arrested offender within a reasonable time to the nearest police station and assist in filing a proper complaint with the appropriate official designated by law to conduct preliminary investigation;
- Deliver within a reasonable time to the nearest DENR or Bureau of Fisheries and Aquatic Resources (BFAR) field office for custody, all confiscated wildlife, their parts, by-products, and/or derivatives, as well as tools, equipment, and conveyances used in the commission of the crime, including corresponding reports;
- Act as a witness in court for the speedy prosecution of criminal complaints against wildlife violators;
- Prosecute cases before Municipal Trial Courts in areas where there are no prosecutors;
- Submit monthly accomplishment reports to the concerned field offices with jurisdiction over their area of operations;
- Coordinate with other law enforcement agencies for security reasons, if necessary; and
- Perform such other duties as may be assigned from time to time by their superiors.

For more information, contact Ms. Meriden Maranan at planning@pawb.gov.ph



TELEPHONE “HOTLINES” AND INTERNET IN THE UNITED STATES

In the United States, the Environmental Protection Agency (EPA) and state environmental agencies host numerous telephone “hotlines.” To facilitate access, these hotlines accept information at all times and pay the telephone charges. These hotlines provide both a means for members of the public to report environmental problems and to receive information in answer to their questions about environmental requirements and good practices. EPA also encourages the use of the Internet by the public to access information and to report an environmental violation or emergency. For the on-line reporting form, see

<http://www.epa.gov/compliance/complaints/index.html>

EPA hotlines include (but are not limited to) those for: Air and Radiation, Pesticides and Toxic Substances, Hazardous and Solid Waste, Pollution Prevention, Water (including Wetlands Protection), Environmental Justice, and Endangered Species. The EPA’s Inspector General Hotline receives and responds to complaints alleging fraud, waste, abuse, or mismanagement within the EPA. A vast amount of pollution-control compliance and enforcement information is available by Internet at

<http://www.epa.gov/compliance>

Experience in the United States suggests that telephone hotlines are used most frequently by those who expect a high “quality of life.” For this portion of the population, hotlines can create a direct line of communication between the affected public and the Government agency responsible for enforcement. However, research suggests that persons who experience the most frequent or severe environmental burdens or violations often are disinclined to use hotlines and unable to use the Internet. Such persons may have low expectations of environmental quality, may face language barriers, distrust government, and often feel disempowered or disenfranchised. Accordingly, while hotlines can be useful, other sources of information and other approaches are necessary to assist the most disadvantaged and environmentally impacted communities, where help is most needed.

For more information, see <http://www.epa.gov/epahome/hotline.htm>



HONORARY FISH WARDENS IN FIJI

Under section 3 of Fiji's Fisheries Act Cap. 158, the Minister responsible for fisheries "may appoint honorary fish wardens whose duties shall be the prevention and detection of offences under this Act and the enforcement of the provisions thereof." The appointment and broad responsibility of honorary fish wardens has been recognised in Fiji law since 1959 (s.2, Ordinance 34 of 1959).

Honorary fish wardens are vital in the policing of iqoliqoli or customary fishing grounds in Fiji. The area covered by an iqoliqoli commonly does not go beyond the outer limits of reefs. Within iqoliqoli, customary owners in parts of Fiji have established Locally Managed Marine Areas (LMMAs). Such LMMAs may provide local rules on the harvesting of certain species, management of fishing and other uses, or set a moratorium on fishing or other activities. By providing incentives and resources, there is great potential for wardens to also police other activities in near-shore areas that may affect marine ecosystems.

An honorary warden is usually a member of the tribe or clan that owns an iqoliqoli. While their responsibilities under the Fisheries Act is broad to include the prevention, detection, and enforcement of offences in Fijian fisheries waters, wardens also play a critical role in monitoring, controlling, and surveillance activities within their respective fishing grounds. Their effectiveness is constrained by the vast areas of sea to police and the limited financial resources, incentives, and equipment.

The effectiveness of fish wardens into the future rests on the adequate provisions of training, incentives, resources, and tools to carry out their tasks. At the legislative level, there is a need to further define roles and responsibilities and elaborate on the relationship between wardens at the village level and law enforcement authorities and courts at the national level.

For further information, see http://www.wwfpacific.org/fiji_flmma_info.htm or contact manoa_p@usp.ac.fj

General Approaches to Public Participation

Following are a variety of other approaches and experiences from States around the world for facilitating public involvement in the development, implementation, and enforcement of environmental laws.



NGO-GOVERNMENTAL COLLABORATION IN ENFORCING WILDLIFE LAWS IN CAMEROON

In Cameroon, the Last Great Ape Organization (LAGA) (a non-governmental organization (NGO)) has been collaborating with the Government of Cameroon in the enforcement of wildlife laws. The institutions have proceeded carefully with the collaboration, since law enforcement is historically a governmental function. Accordingly, NGOs in Cameroon traditionally have not participated directly in the enforcement of wildlife or other environmental laws. This innovative experiment has highlighted ways that NGOs can collaborate constructively with Governments to improve the enforcement of wildlife laws.

Cameroon has had a wildlife law in place for more than a decade, but there have been few if any prosecutions for violations of this law. Similarly, NGOs have undertaken many conservation projects in the country, but few of these have enhanced the actual application or enforcement of wildlife laws. Accordingly, LAGA and the Government of Cameroon agreed to try a new approach that was more collaborative and adopted a result-oriented approach with measurable standards for evaluating its effectiveness.

Starting in 2003, the project involves the NGO in all stages of law enforcement and application. This includes participating in investigations, field operations, legal follow-up and representation, prosecution, conviction, and post-conviction visits with the convicted individuals. It was essential that the NGO have a clear mandate (or “legitimacy”) to identify obstacles in the process and to challenge corruption where necessary.

This concept of legitimacy for an NGO to be involved in law enforcement is one of the unique aspects of this collaboration. This unique mandate requires political sensitivity and trust to be built between the NGO and the Government, not to mention care in terms of legal authority. As a practical matter, this trust was built gradually through a significant investment of time, open communications, and experience in collaborating. Initially, three conditions had to be met:

1. To prove quickly that the collaboration could deliver concrete results, as measured against a baseline;
2. That the results can benefit the Government; and
3. That this new level of collaboration does not harm the government or disrupt administrative procedures.

After one year, the challenge for gaining acceptance was met. Many concrete successful wildlife prosecutions (11 in the first year, and a total of 53 as of February

NGO-Governmental Collaboration in Enforcing Wildlife Laws in Cameroon (cont'd)

2006) are a strong indicator of success against the baseline. These results are benefiting the government through improved compliance and enforcement, with no additional expenditure of governmental resources. LAGA's improved relations with the government have also benefited LAGA. For example, the government now includes LAGA as a member of its delegation to CITES meetings, including those of the Conferences of the Parties.

The positive results of this innovative approach indicate that NGOs can play a more active and effective role in supporting enforcement and compliance than previously thought. In order for NGOs to play such a role, though, it is important to first build trust between the NGO(s) and the relevant governmental bodies.

For more information, contact Mr. Ofir Drori at lastgreatape@yahoo.com



A SURVEY OF SOME COUNTRIES' APPROACH TO INVOLVING CITIZENS GROUPS AND NGOs

India: Permanent People's Tribunal. NGOs in India have adopted an effective means of advocacy through people's tribunals. For instance, the Permanent People's Tribunal (PPT) hears cases filed by individuals or communities affected by environmental degradation. Its judgements are widely publicised.

Mongolia: NGO/Government Partnership for Conservation. The Mongolian Government cooperates closely with NGOs, for example with the Mongolian Association for the Conservation of Nature and Environment, which coordinates the voluntary activities of local communities and individuals to protect nature and wildlife, and with her Green Movement which promotes public environmental education in support of traditional protection methods.

New Zealand: New Zealand's Resource Management Act Community requires public participation. When developing their 10-year policies and plans, regional and district councils are required to consult with community stakeholders and interest groups, including the indigenous Maori people.

South Africa and Zimbabwe: Public consultation is more common now in African countries due to new environmental legislation and official policy documents, such as the Green Paper on the Environment in South Africa and Environmental Management Bill in Zimbabwe.



THE PHILIPPINES: STAKEHOLDER INVOLVEMENT IN NATIONAL PLANNING AND IMPLEMENTATION OF PLANT GENETIC RESOURCES ACTIVITIES

In the Philippines, the National Committee on Plant Genetic Resources (NCPGR) recommends policies, rules and regulations, and determines the overall direction of all plant genetic resources activities. Established by the Department of Science and Technology in 1993, the committee consists of representatives from the 15 government and non-government agencies mandated to conduct plant genetic resources activities. It has also developed partnerships with other local and international organisations involved in PGRFA work.

Policies, Plans, and Legislation: Several laws and executive orders concerning protected areas, seed regulations, biosafety, the rights of indigenous peoples and access to genetic resources, as well as plans such as the Philippine Strategy for Biodiversity Conservation, the Philippine Agenda 21 and the Magna Carta for Small Farmers have been developed, often following lengthy consultation among the various stakeholders. Consultations with stakeholders are standard procedure before defining Philippine positions at international and regional plant genetic resources fora.

For instance, in 1998 the committee sponsored a National Consultation on the FAO International Undertaking on Plant Genetic Resources and Farmers' Rights, which brought together representatives of farmers' groups, local, regional and international NGOs, universities and government agencies. The committee has also encouraged coordination among the national agencies responsible for PGRFA, including the Departments of Foreign Affairs, Agriculture, Science and Technology, and Environment and Natural Resources.

Implementation of PGRFA Activities: On-site conservation is carried out on-farm by farming communities. These communities may form a collective group, such as the Magsasaka at Siyentista Para sa Pagpapaunlad ng Akmang Agricultura (MASIPAG). Regional agencies, such as the Southeast Asian Regional Institute for Community Education (SEARICE) and Genetic Resources Action International (GRAIN), also provide technical and other forms of support. For protected areas, such as wildlife sanctuaries, protected landscapes and seascapes, the Department of Environment and Natural Resources (DENR) assigns management responsibilities to indigenous peoples, with the active support of many NGOs. Off-site conservation and use, in contrast, are handled mainly by government agencies as part of their crop improvement programmes.



EVOLUTION OF PUBLIC PARTICIPATION IN BULGARIA

Over time, Bulgaria has developed a cooperative approach to involving the public in environmental decisionmaking. It was a long process, and it was not easy for either the government or for civil society. At the beginning, NGOs in Bulgaria opposed most proposed actions by the governmental bodies, and the experts in the system of the Ministry were not ready to work with NGOs. But there has been an evolution in the way both groups think, so that public consultation and participation are more collaborative and constructive. NGOs realized that some of the projects were aimed to improve the environmental conditions through new land fills, waste water treatment plants, and so forth. The public became aware that something had to be done. And both government and civil society realized that it was necessary to cooperate in order to realize goals of environmental protection and sustainable development. This does not mean that one group or person necessarily defers to someone's opinion. However, there is more willingness to work together to solve environmental problems.

Legal provisions are now in place to ensure public participation in environmental decisionmaking. Public hearings for EIA reports are the most common and have the longest practice. In addition, the Ministry of Environment and Water (MOEW) initiates other forms of public participation in decisionmaking. For example, NGOs, scientists, and other stakeholders may participate in discussions regarding management plans for protected areas and for river basins, and they may make proposals to competent authorities for inclusion of new territories in the list of protected areas. They can request information about applications that have been submitted for permits. The municipal authorities are obliged to invite NGOs and the public to participate in the development of municipal programmes on environmental protection and sub-programmes on waste management, improvement of ambient air quality, etc.

The non-governmental sector can also participate in the preparation of environmental legislation. MOEW organises public hearings of draft environmental laws and national programmes. The Parliamentary Commission on Environment invites NGOs at all meetings when draft laws are discussed.

Bulgarian governmental institutions collaborate actively with NGOs in implementing projects, especially in biodiversity protection. NGO representatives and scientists participate in the boards of directors of the Environmental Funds and Municipal Environmental Protection Funds.

Public participation is seen as a compulsory and essential part of the EIA procedure. The law authorises the public to give its opinion on the outcomes of an EIA, environmental assessments of plans and programs, and EIAs on investment proposals and integrated permits. The competent authorities must take the public comments into consideration. If they do not, stakeholders may appeal before the court. In practice, the public and NGOs have been actively engaged through the EIA process. There are consultations with the public at three stages of the EIA process after notification to the

Evolution of Public Participation in Bulgaria (cont'd)

competent environmental authority and concerned public:

- during screening,
- during scoping, and
- during preparation of the EIA report.

In addition to the public consultations at these three stages, after the report has been drafted, the project proponent and the relevant municipality hold public hearings on the EIA report. The public must have at least 30 days to view the project proposal and its EIA. Minutes of the meeting (7 days) are followed by the proponent's opinion on the results (14 days) and then by the decision, which is allowed 90 days for preparation and submission to the relevant Environmental Council for decision. The final decision will specify any necessary mitigation or other requirements.

The Integrated Pollution Prevention and Control (IPPC) and Seveso II permitting processes also require public participation in the decisionmaking process. [IPPC permits are required for construction, operation, and significant reconstruction of industrial facilities. The Seveso II permitting process implements the UNECE Convention on the Transboundary Effects of Industrial Accidents.] Thus, when considering applications for integrated permits for industrial facilities and permits for new and operating facilities with dangerous substances, MOEW opens the application to public discussion. Also, once a permit is issued, the Executive Environment Agency is required to keep a public register on the monitoring on the emissions set forth in the integrated permits.

For more information, see <http://www.moew.government.bg> or contact llievaNelly@moew.government.bg



Additional Resources On Public Participation

Aarhus Clearinghouse for Environmental Democracy, available at <http://aarhusclearinghouse.unece.org/resources.cfm> (including case studies and analysis).

Hussein Abaza & Andrea Baranzini (eds.), *Implementing Sustainable Development: Integrated Assessment and Participatory Decision-Making Processes* (UNEP/Elgar 2002).

Access Initiative, available at <http://www.accessinitiative.org> (including various publications).

V. Bainbridge et al., *Transforming Bureaucracies: Institutionalising Participatory Approaches and Processes for Natural Resource Management: An Annotated Bibliography* (IIED 2000).

Carl Bruch (ed.), *The New "Public": The Globalization of Public Participation* (ELI 2002), available at http://www.elistore.org/reports_detail.asp?ID=10662.

European ECO Forum, *Implementing Rio Principles in Europe: Participation and Precaution* (2001), available at http://www.participate.org/publications/Implementing_rio.pdf.

Pietro Caratti et al. (eds.), *Analysing Strategic Environmental Assessment: Towards Better Decision-Making* (Elgar 2004).

Additional Resources On Public Participation (Cont'd)

Institute of Development Studies, *Public Participation and the Cartagena Protocol on Biosafety* (2003), available at <http://www.ids.ac.uk/ids/env/PDFs/NBFreport%20Main.pdf> (in English and Russian) (examining public participation in the development of national biosafety frameworks, including three parts: the review, the case studies, and a practical guide).

International Association for Public Participation, available at <http://www.iap2.org>.

Elizabeth D. Mullin, *The Art of Commenting: How to Influence Environmental Decisionmaking with Effective Comments* (2000), available at http://www.elistore.org/books_detail.asp?ID=107 (providing step-by-step guidance in reviewing environmental documents, preparing comments, and ensuring consideration of comments).

Krystyna Swiderska, *Participation in Policymaking for Access and Benefit-Sharing: Case Studies and Recommendations* (IIED 2001).

UK Department of Environment, Transport, and Regions, *Public Participation in Making Local Environmental Decisions: Good Practice Handbook* (2000), available at <http://www.unece.org/env/pp/publications.htm> (with case studies from throughout the UNECE region) (in English and Russian).

UNEP, *Natural Allies: UNEP and Civil Society* (UNEP 2004), available at http://www.unep.org/Documents_multilingual/Default.asp?DocumentID=67&ArticleID=4649&l=en (in English, French, and Spanish).

UNEP, *Environmental Impact Assessment: Training Resource Manual* (2nd ed.) (2002) (This manual provides trainers, especially in developing countries and countries with economies in transition, with the resource materials to develop and produce site- and situation-specific training courses for the different target groups concerned with EIA.)

UNEP, *Law and Practice Relating to Access to Information on the Environment, Public Participation in Processes Leading to Decision-making and Access to Judicial and Administrative Procedures Relating to Environmental Matters: A Report on Models of National Legislation, Policy and Guidelines in the Africa Region, Asia and Pacific Region, and the Latin America and Caribbean Region* (UNEP 2002).

University of Victoria's Centre for Global Studies, *"Rethinking Governance" Handbook: An Inventory of Ideas to Enhance Accountability, Participation, and Transparency* (2001), available at <http://www.eldis.org/static/DOC2883.htm> (including a wide range of case studies and resource materials at the international, regional, national, and local levels).

Jerry Velasquez et al. (eds.), *Innovative Communities: People-Centred Approaches to Environmental Management in the Asia-Pacific Region* (UNU Press 2005).

See also discussion and resources following Guideline 42(b). On public participation in the preparation of national reports, see the case study on "Public Involvement in the Development of Ukraine's National Reports for MEAs" following Guideline 14(c).

Informing all Governmental Bodies of Environmental Actions

- [41]** (l) *Informing legislative, executive and other public bodies of the environmental actions taken and results achieved;*

All branches of government function best when they are fully aware of actions undertaken by the other branches. For example, the judiciary increases its ability to interpret and apply the law when it has been fully briefed on new and developing laws as they come out of the legislature. In the same vein, the legislature does a better job at developing new laws and amending existing ones when it has a clear picture of how existing laws are being implemented and enforced by the executive branch and what results are being achieved.

One way of reaching this goal is through the development of a “State of the Environment Report” by the country’s environment agency (with input from other relevant national/state agencies or units). Such a report can contain indicators on environmental trends as well as interpret and analyse data on the environment. In the United States, the “State of the Environment Report” has been hailed by the Environmental Protection Agency’s Chief information officer as telling: “a story of national conditions based on a suite of appropriate indicators which are used to answer questions about the environment.” The officer noted further, “When environmental indicators, questions and issues are connected, it will be possible to assess trends environmental conditions and the relationships between environmental stressors, conditions and public health. Decision makers can then use this information to determine whether or not the investments made in environmental policies have in fact delivered their intended results”.

CH II - D

Media Actions to Highlight Environmental Compliance and Enforcement

- [41]** (m) *Use of the media to publicize environmental law violations and enforcement actions, while highlighting examples of positive environmental achievements;*

Press coverage can have a powerful effect on how the regulated community conducts itself in environmental affairs. The prospect of bad publicity stemming from media coverage of environmental violations can deter misconduct in some cases more than the fear of penalties. Moreover, the prospect of positive media coverage highlighting a company's or industry's good environmental record can serve as a strong incentive. As such, States are encouraged to make full use of the potential that liaising with the press in environmental matters can offer. Newspapers, the internet, television, and radio broadcasts are all potential tools.

Newspapers are increasingly addressing environmental issues. Until a few years ago, reporting on the environment was limited to reports of speeches on Environment Day or the coverage of tree-planting campaigns. Today journalists, working closely with environment activists, are much more pro-active and are focussing on larger issues on a much wider scale.



[30]
[31]
[41(a)(iv)]
[44]

For more information on the use of media to promote public education and public awareness, see the case studies, explanatory text, and other reference materials relating to Guidelines 30, 31, 41(a)(iv), and 44.



USE OF THE MEDIA TO ENCOURAGE GOOD ENVIRONMENTAL CITIZENSHIP

China's Environment Newspaper: China's national level environment newspaper, China Environmental News, played a major role in improving public awareness on the environment. Broadcasting companies also play a major role. China's radio stations, for example, regularly broadcast programmes and conduct competitions on environment themes. One local radio station in Beijing in 1988 attracted more than 60,000 responses from more than one million listeners to a knowledge competition on environmental protection, a success that has since been repeated by other radio stations.

Argentina: National List of Violators of Environmental Regulations. In Argentina, legal initiatives empowering the National Secretary of Natural Resources and Human Environment to publish a list of violators of environmental regulations are causing negative publicity for the offending industries.

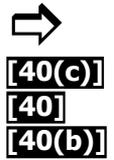
Africa: Several African newspapers have designated environmental desks or journalists responsible for weekly or bi-weekly detailed environmental features. This remarkable development helps to enhance public awareness on the environment as well as providing a rich source of environmental education for the public on global and national environmental issues.

Periodic Review of Adequacy of Laws, Regulations, and Policies

[41] (n) *Periodic review of the adequacy of existing laws, regulations and policies in terms of fulfilment of their environmental objectives;*

Determining whether environmental laws and regulations are having their intended effect is an essential step in protecting the environment. As such, evaluations of the existing legal and regulatory provisions should be conducted regularly and with sufficient frequency to ensure their usefulness. These assessments should focus on whether the laws are achieving their intended goals and aims, not just on the number of enforcement actions. Providing for this periodic review within the law itself or integrating a requirement for it in the mandate for institutional frameworks is well worth considering.

In addition to periodic reviews, drafting of legislation or regulations to implement an MEA provides an opportunity for a State to assess the extent to which existing laws, regulations, and policies fulfill their environmental objectives. For example, when St. Lucia was drafting its CITES implementing legislation, it noted that existing penalties for violations of wildlife laws provided an insufficient deterrent to be effective. Accordingly, the new legislation has more severe penalties [see case study on “Adjusting Penalties to be More Effective in St. Lucia” under Guideline 40(c)].



Similarly, Singapore revised the penalties for trafficking in species of plants and animals protected under CITES when it found that the fines and other penalties were inadequate. Now, trafficking in CITES-listed species is a serious crime.

In addition to periodically reviewing legislation to see if it is effective or how it should be modified, it is equally important to review the effectiveness of regulations, policies, and enforcement programmes. Increasingly, Governments and other institutions are adopting an adaptive management approach. As described in the explanatory text following Guideline 40, above, this adaptive environmental management provides a framework for checking the progress toward the stated goals (or lack thereof), collecting feedback on what has been learned from the current system (through monitoring and other mechanisms), and revising or adapting the particular regulation, policy, plan, or programme.

For another example of reviewing (and revising) laws to more effectively fulfill their objectives, see the case study on “Redrafting the Philippines Legislation on Access to Genetic Resources and Benefit Sharing (ABS)” following Guideline 40(b).



CANADA'S ENVIRONMENTAL BILL OF RIGHTS ACT

In Canada, residents of the Province of Ontario can initiate a review of the adequacy of environmental laws. The Environmental Bill of Rights Act provides that "Any two persons resident in Ontario who believe that an existing policy, Act, regulations or instrument of Ontario should be amended, repealed, or revoked in order to protect the environment may apply to the Environmental Commissioner for a review of the policy, Act, regulation or instrument by the appropriate minister." (Section 61)

The application for review must:

- (1) State the names of the applicants;
- (2) Provide an explanation of why they believe the review applied for should be undertaken in order to protect the environment; and
- (3) Include a summary of the evidence supporting the applicant's belief that the review applied for should be undertaken in order to protect the environment. In determining whether the public interest warrants a review, section 67 of the Act provides that the minister may consider:
 - the ministry statement of environmental values;
 - the potential for harm to the environment if the review applied for is not undertaken;
 - the fact that matters sought to be reviewed are otherwise subject to periodic review;
 - any social, economic, scientific or other evidence that the minister considers relevant;
 - any submission from a person who received notice of the review;
 - the resources required to conduct the review; and
 - any other matter the minister considers relevant.

The Act imposes a duty on the Minister to conduct the review within a reasonable time, if the Minister determines that the public interest warrants a review.



AUDIT OF COMPLIANCE WITH THE BASEL CONVENTION IN AUSTRIA

Audits by state auditors and national courts of audit can highlight where States are succeeding in implementing MEAs and also identify systematic barriers to effective implementation of MEAs. In most instances, audit results currently are primarily shared between auditors; although public dissemination and discussion of audits examining implementation of MEAs could spur measures to improve MEA implementation.

In 2003, the Austrian Court of Audit conducted an audit of Austria's implementation of the Basel Convention. The audit's primary findings were that the established notification system was extremely complex, with 20 different proceedings, and illegal transports were only exposed by chance. Some of the main problems were the amount of waste (more than 750,000 tons per year) and number of notifications (more than 700 every year) combined with differing waste categories in the Basel Convention and in the EU regulation. Indeed, only 19% of the audited notifications were formally correct and complete.

For more information, see www.rechnungshof.at

National Capacity Self-Assessments

With assistance from GEF and its implementing agencies, many States are undertaking National Capacity Self Assessments (NCSAs) to examine why MEAs and corresponding national laws and regulations are not being implemented as the States had intended them to be implemented. See case study below on the NCSA process generally, as well as a case study summarising one country's experience with the NCSA process.



NATIONAL CAPACITY SELF-ASSESSMENTS (NCSAs)

In May 1999, the GEF Council approved the Capacity Development Initiative (CDI), a partnership between the GEF Secretariat and UNDP. This project sought to assess capacity building needs in developing countries and countries with economies in transition, with a special focus on the three Rio Conventions (UNFCCC, CBD, and UNCCD). In 2001, the GEF Council decided that this assessment should be further undertaken by the countries, reflecting GEF's rule that projects should be country-driven. Countries were therefore encouraged to prepare National Capacity Self-Assessments for Global Environmental Management (or NCSAs for short). NCSAs address three levels of capacity: systematic, individual, and institutional.

NCSAs seek to identify the national priorities and needs for capacity building to address global environmental issues in order to stimulate and focus domestic, bilateral,

National Capacity Self-Assessments (NCSAs) (cont'd)

and international capacity building actions to meet the articulated needs. As such, there is an emphasis on linking global environmental obligations (particularly relating to climate change, biodiversity, and desertification and land degradation) to national goals for sustainable development goals. The NCSA process highlights the mutually-reinforcing relationship between national initiatives and MEAs. It seeks to assist countries in identify ways that they can better implement, comply with, and enforce MEAs. At the same time, the NCSA process also highlights ways that MEAs can better support priorities and activities at the national level.

NCSAs focus on cross-cutting issues. They identify and explore synergies and interlinkages among the three Rio Conventions, as well as with broader issues of environmental management and sustainable development. These include cross-institutional coordination and dialogue, as well as cross-sectoral issues and synergies. Accordingly, NCSAs promote a holistic approach to national capacity building and implementation of multiple MEAs (and especially the Rio Conventions).

To assist countries in preparing NCSAs, GEF has prepared a Guide for Self-Assessment of Country Capacity Needs for Global Environment. This Guide provides suggestions for methodologies to be used in the NCSA process, and it is based on international and national experiences. The Guide is available in the six UN languages at:

http://www.gefweb.org/Documents/Enabling_Activity_Projects/CDI/cdi.html

NCSAs are country-driven, although UNEP and UNDP often provide technical assistance (and administer the GEF funds that enable countries to conduct NCSAs). This means that there is national ownership and leadership of the NCSA process: it is undertaken by national institutions and experts to the extent feasible, and it focuses on national contexts and priorities. The NCSA process should be done with multi-stakeholder consultation and participation in decisionmaking. The NCSA should also build upon relevant past and ongoing work.

The average duration of an NCSA project should be between 12 and 18 months, but each State may decide for itself depending on its institutional capabilities. GEF provides support (up to US\$250,000 per country) to eligible countries (particularly developing countries and countries with economies in transition) to conduct an NCSA.

As the process for preparing a funding proposal to obtain these funds can be lengthy, eligible countries can apply for a preliminary grant of \$25,000 to prepare the proposal. When applying for funds to conduct an NCSA, a State can choose any of the three GEF implementing agencies – UNEP, UNDP, and the World Bank – for assistance in preparing the proposal and subsequently to administer the funds and provide technical assistance. In addition, the GEF focal point and the national focal points of the three Rio Conventions should be involved in preparing the proposal. As of May 2004, a total of 81 NCSA projects (52 UNDP + 29 UNEP) were approved by GEF and are at various stages of implementation.



[34(h)]

For more information on the NCSA process, contact

secretariat@TheGEF.org or see http://www.gefweb.org/Documents/Enabling_Activity_Projects/CDI/cdi.html

For more information on synergies interlinkages, see Guideline 34(h).



ARMENIA'S NATIONAL CAPACITY SELF-ASSESSMENT FOR GLOBAL ENVIRONMENTAL MANAGEMENT (NCSA)

Armenia is a party to numerous MEAs, including the UNCBD, UNFCCC, and UNCCD. With the assistance of GEF and UNDP, Armenia has undertaken a National Capacity Self-Assessment (NCSA) to identify what measures to implement these MEAs have worked, and where there are legal, regulatory, and institutional gaps. In addition to considering these MEAs, Armenia sought to place the MEA issues in the context of national development priorities and poverty reduction strategy. Particular attention was paid to identify critical national capacity needs across the three MEAs and recommending measures to address those needs.

A variety of Armenian national experts conducted the NCSA studies, with general guidance from UNITAR on the content, structure, approaches, and focus of the assessment. The experts helped to ensure that a diverse range of approaches were applied in the analyses.

In order to successfully implement project activities, ensure sustainability of results and encourage wide participation, a Project Steering Committee (PSC) was established. The PSC was established by the decision of the Minister of Nature Protection and comprises a total of 20 representatives from the stakeholder ministries, UNDP, international organizations, MEA focal points, donors, and NGOs. The high-level support significantly helped to coordinate the process and incorporate stakeholder comments, and ultimately ensured solidarity of outcomes. Thematic needs assessments were undertaken to identify capacity needs for implementation of commitments under the three MEAs. Three thematic working groups were established, with 23 national experts and MEA focal points. The working groups conducted stocktaking through extensive consultations with state institutions, local governments, and key stakeholder organizations. Based on the thematic assessments and capacity gaps identified, the NCSA undertook an in-depth and integrated analysis of 7 cross-cutting issues, where capacity needs across all three conventions were similar and further in-depth analysis was required. These included: environmental policy and legal frameworks; institutional management; monitoring and access to information; financial instruments and mechanisms; inter-sectoral, integrated, and coherent planning of natural resource use; public awareness and environmental education; and scientific information, research, and available technologies.

Based on the analysis, an integrated final report and National Action Plan was developed and presented at a national seminar in September 2004 for stakeholder comments. The National Action Plan has identified measures, funding sources, and timeframes for activities, as well as responsible and cooperating agencies. It seeks to address identified constraints and meet capacity building needs.

The NCSA process was innovative and flexible in a variety of ways. In Armenia (and elsewhere), NCSA allows the State to critically examine its own needs and develop appropriate recommendations. Armenia's NCSA process identified a number of needs, which if left unmet could constitute significant barriers to effective implementation

Armenia's National Capacity Self-Assessment for Global Environmental Management (NCSA) (cont'd)

of MEAs. These included the need to strengthen the currently weak institutional linkages between the central and local governing bodies; strengthening monitoring and information management capacities and coordination among different agencies and institutions; and developing new financing instruments for addressing priority environmental measures.

This assessment process helped to establish partnerships, raise awareness, and promote dialogue among government agencies as well as between government agencies, international institutions, and various private and civil society organizations. The NCSA Armenia team also recognised the importance of education and awareness issues for implementation of the MEAs, and it highlighted opportunities posed by the UN Decade for Sustainable Development Education.

Armenia's experience with the NCSA process has highlighted a number of methodological approaches that were effective in assessing capacity needs. Targeted surveys were effective as an objective assessment tool as well as an educational tool. Identification of the primary stakeholders and determination of common interests and benefits among stakeholders was crucial, although there was a need to establish a balance in terms of global and local priorities. Armenia was able to ensure cost effectiveness in achieving project goals by establishing appropriate networks and cooperative mechanisms with the private sector, NGOs, and donors. Finally, the broad participatory process helped to foster ownership of the NCSA process and its recommendations.

For more information, see <http://www.nature-ic.am> or contact nlsa@nature.am or nlsa@undp.am

Revising National Legislation

A review of national environmental laws and regulations may indicate that it would be beneficial to revise national legislation. Revision may be necessary to resolve gaps in national legislation, incorporate new developments within an MEA (e.g., adoption of particular resolutions or a Protocol), reconcile conflicts between legislation implementing an MEA and sectoral legislation, or to strengthen the penalties for violation of the law. [Examples of revising sanctions to make them more appropriate can be found following Guideline 40(c). In addition, there is a case study on "Redrafting the Philippines Legislation on Access to Genetic Resources and Benefit Sharing (ABS)" following Guideline 40(b).]



[40(b, c)]

Generally speaking, many of the considerations and approaches for developing implementing legislation apply in this context.



REVISING ENVIRONMENTAL LEGISLATION FOR CONSISTENCY WITH SECTORAL LEGISLATION IN THE REPUBLIC OF CONGO

In the Republic of Congo (Brazzaville), the Government has revised national environmental laws to resolve inconsistencies with sectoral legislation. In this process, the Ministerial department that initiates the process develops a draft legal text. In drafting this text, the department reviews all the existing texts (laws, regulations, decrees, etc.) relating to the particular subject of the draft legislation. In addition, MEA provisions are taken into account, since under Congolese law MEAs take precedence over national law.

The department then disseminates the draft text to other relevant departments for their review and comment.

Environmental NGOs are also involved in the legislative process. The Government maintains a list of all environmental NGOs that are officially registered. The draft legislative text is also sent to a group of legal experts in NGOs for their review and advice. Subsequently, the lead department convenes a meeting of all the various departments and stakeholders. At this meeting, the departments discuss the draft law and ultimately adopt a revised version.

In addition to Government agencies, other institutions – such as NGOs or oil or forest enterprises – may also be involved. When these non-governmental entities are involved, copies of the draft text are sent to them in advance so that they can consult with their colleagues and develop a common position on the various issues. That common position is presented at the meeting with the government agencies.

For more information, contact Mr. Marcel Pambou-Tchiloemba patchimarc@yahoo.fr



CONSOLIDATION OF LEGISLATION RELATING TO PROTECTED AREAS IN BRAZIL

In 2000, Brazil consolidated several different laws and regulations addressing protected areas into a single regulatory framework, the National System of Nature Conservation Areas (or SNUC, its acronym in Portuguese). Until this consolidation, there were several different laws, each one dealing with a different management category. While putting the new coherent regulatory framework in place, the 2000 legislation also revoked the old laws. The establishment of specially protected areas is the constitutional mandate of the government at all levels: Federal, State, and Municipal.

The creation of protected areas did not always adhere to uniform technical or scientific criteria. This led to the existence of more than 100 different categories of protected areas, and the particular management objectives were not always clear. This complicated the recognition and systematisation at the national level of the various protected areas.

The particular importance of creating the National System of Nature Conservation Areas is in the definition, uniformity, and consolidation of criteria for establishing and managing these areas. These various considerations are essential for planning and implementing the National Protected Areas Policy by the Ministry of the Environment, the main body in charge of coordinating the system. As such, the uniform national approach provides a much-needed integration of what had formerly been impervious systems. It is expected that this integration will improve coordination among the Federal, State, and Municipal governments in the management of protected areas.

For more information, see <http://www.mma.gov.br> or contact larissa.godoy@mma.gov.br, maria-carolina.hazin@mma.gov.br, or raquel.breda@mma.gov.br

Establishing Effective Courts

- [41]** (o) *Provision of courts which can impose appropriate penalties for violations of environmental laws and regulations, as well as other consequences.*

Courts are the most prevalent formal institutional setting for sanctioning the violation of environmental laws and regulations and ensuring compliance with environmental laws and standards. They exist in virtually all States in the world, although there are variations in the court systems from one country to another. Given the importance of their role in adjudicating violations of law and imposing penalties, courts must be imbued with sufficient authority to sentence violators to effective penalties and other consequences.

In some parts of the world, specialised courts are created expressly to address environmental cases. The establishment of environmental courts is not strictly necessary for ensuring that environmental cases are handled appropriately, but States with a judicial structure that lends itself to such specialisation may want to consider it.

Specialised administrative bodies serving in a quasi-judicial capacity can supplement environmental courts and/or standard courts. Such environmental commissions often are the first avenue for appealing actions by an environmental agency or ministry. Trinidad & Tobago's Environmental Commission, discussed below, is one such example.

Thus, States have opted to use different mechanisms to impose penalties for violations of environmental laws and regulations. These range from generic formal legal mechanisms (such as courts of general jurisdiction) to specific formal legal mechanisms (such as environmental courts) to less formal quasi-judicial bodies (such as environmental tribunals, environmental appeals boards, and other administrative bodies). The less formal arrangements tend to reach decisions more quickly, with less cost (a lawyer is not necessarily required), and there usually is the option of appealing to formal courts if one of the parties to the case disputes the outcome. As such, less formal arrangements can improve public access to justice. In contrast, the more formal mechanisms have the advantage that they protect the various parties' rights through their procedural rules (albeit at the expense of longer and potentially more costly proceedings). For example, see the discussion of "Specialised Environmental Administrative Tribunals and Prosecutors in the United States" following Guideline 41(a)(v).



[41(a)(v)]



AUSTRALIA'S SPECIALISED ENVIRONMENTAL COURT

In 1979, the government of New South Wales, Australia established the specialised Land and Environment Court (LEC) as the cornerstone of its Land and Environment Court Act. A specialist environmental court was created to administer environmental law. The court was placed at the top of the judicial hierarchy of trial courts, as a superior court of record, which is equivalent in status to the Supreme Court and subject only to the Court of Appeal.



THE ENVIRONMENTAL COMMISSION OF TRINIDAD & TOBAGO

The Environmental Management Act (EM Act) No. 3 of 2000 established an Environmental Commission. The Commission is a superior court of record charged with the resolution of certain environmental disputes brought before it. The Commission comprises a full-time Chairman, a full-time Deputy Chairman and four part-time members. The Chairman and Deputy Chairman are required to be Attorneys-at-Law of not less than 10 years standing. The part-time members are to be appointed by the President of the Republic of Trinidad and Tobago from among such persons who are qualified in the areas of environmental issues, engineering, natural sciences or social sciences.

The Commission has jurisdiction to hear matters under the EM Act or any written law where jurisdiction in the Commission is specifically provided for, including but not limited to:

- Appeals from decisions or actions of the Environmental Management Authority (EMA);
- Applications for deferment of decisions by the EMA to undertake certain emergency response activities;
- Applications for deferment and appeals of designations by the EMA of "environmentally sensitive species" or "environmentally sensitive areas"; and
- Appeals from a decision by the EMA to refuse to issue a certificate of environmental clearance or grant such a certificate with conditions.

Any individual or group of individuals expressing a general interest in the environment or a specific concern with respect to alleged violations of specified environmental requirements, as identified in Section 62 of the EM Act, can bring direct private party action to the Commission.

Once a complaint is filed and the EMA is duly notified of it, the EMA may decide to take such action on the complaint as it deems necessary. In the event that the complainant is dissatisfied with the EMA's response, the matter is then brought before

The Environmental Commission of Trinidad & Tobago (cont'd)

the Commission. On hearing of a complaint, the Commission is empowered to issue any Administrative Order, which the EMA could have appropriately made, or refer the matter back to the EMA for reconsideration.

For more information on the Commission, contact Mr. Alvin Pascal at alvinpascal@hotmail.com



GUYANA'S ENVIRONMENTAL APPEALS TRIBUNAL

The Environmental Protection Act of Guyana, Cap. 20:05 of the Laws of Guyana (Act No. 11 of 1996), established an Environmental Appeals Tribunal as a superior court of record with all the powers inherent in such a court. It can issue judgments, enforce its own orders, and punish contempt, as does the High Court of Justice. The Tribunal has not yet been empanelled.

The Tribunal is authorized to hear and decide a variety of appeals from administrative actions by the Environmental Protection Agency. These include appeals arising from: the refusal to grant an environmental authorization or permit; cancellation or suspension of an environmental authorization; conditions attached to any environmental authorization; the revocation or variance of an environmental authorization; an enforcement notice or a prohibition notice; or requirements of an environment permit.

The Tribunal is composed of a full time Chairman, a Vice-chairman, and other members. Both the Chairman and the Vice-chairman must be attorneys. The members can serve in a full-time, part-time, or periodic capacity, as necessary. The members (including the Chairman and the Vice-chairman) are appointed by the President based on their knowledge and experience in environmental protection, conservation, engineering, natural sciences, and social sciences. Members serve for at least two years. Grounds for dismissal include employment or interest that is incompatible with the functions of a member of the Tribunal; misbehaviour is also grounds for dismissal. If a member becomes ill and is unable to function in the post, the post can be filled on a temporary or permanent basis.

Every appeal to the Tribunal is instituted by filing with the Registrar of the Tribunal a notice of appeal and serving a copy thereof on the Secretary of the Agency or other respondent. The appeal must be filed within a set period of time, although the Tribunal can waive this requirement if it finds that the delay was reasonable. The appeal must specify the nature of the dispute and the grounds for appeal, and it must follow the format prescribed by Tribunal rules. Upon receiving a notice of appeal, the Agency or other respondent must forward to the Tribunal copies of all documents relating to the decision being appealed.

Guyana's Environmental Appeals Tribunal (cont'd)

When the Tribunal hears a case or proceeding, a panel is constituted that includes either the Chairman or the Vice-chairman, as well as two other members selected by the Chairman or Vice-chairman. When the Tribunal fixes the date for the hearing of matter, it must provide 14 days notice to the parties to the case. All appeals to the Tribunal are heard in public, and any appellant, complainant, or respondent may appear before the Tribunal in person or be represented by an attorney. The Tribunal can examine witnesses, inspect documents, enforce orders, and enter and inspect property; and it enjoys all powers, rights and privileges as are vested in the High Court. As a quasi-judicial body, the Tribunal is bound by the same rules of evidence that bind the High Court. The Registrar of the Tribunal summons appellants and respondents and witnesses. The Tribunal can accept written arguments and a citation of authorities in addition to or, with the consent of the parties, in place of an oral hearing. The Tribunal may, subject to the approval of the President, make rules on the practice and procedure in connection with appeals to the Tribunal and other proceedings, as well as the regulating of matters relating to costs of proceedings before the Tribunal. The onus of proving that the decision complained of is excessive or wrong is on the appellant. The Tribunal cannot reverse Agency findings of fact unless the appellant demonstrates that there is no substantial evidence supporting such findings of fact.

The Tribunal decides cases on a majority vote of the members present. However, the opinion of the presiding member (i.e., the Chairman or Vice-chairman) shall prevail on any matter arising in the course of any proceedings that, in his or her opinion, is a question of law. The Tribunal may dispose of an appeal by dismissing it; allowing it; allowing it and modifying the decision or action of the Agency; or allowing it and referring the decision or action back to the Agency for reconsideration.

The presiding member delivers the decision of the Tribunal in any proceedings, and any member may provide a concurring or dissenting opinion to the decision of the Tribunal. The Tribunal can render an order for the full or partial payment of costs to the successful party, including costs incurred in the summoning and attendance of necessary witnesses. The decision of the Tribunal is final on questions of fact; although parties can appeal any question of law to the Court of Appeal, upon entry of a final judgment by the Tribunal. In such a situation, the Court of Appeal may affirm the Tribunal's decision, reverse the Tribunal's decision, or remand the case to the Tribunal for reconsideration based upon holdings by the Court of Appeal.

For more information, see <http://www.epaguyana.org> or contact Ms. Eliza Florendo eflorendo@epaguyana.org or Ms Fianna Holder fholder@epaguyana.org



ENVIRONMENTAL COURTS IN SUDAN

In 1998, the Governor of Khartoum State issued a directive establishing a specialised court to deal with environmental transgressions at the state (i.e., sub-national) level. The court is supervised by the Khartoum Centre Development Corporation (KCDC), which has approximately 100 environmental officers in its environmental monitoring unit. The judges of the court are appointed by the Judiciary Corporation, and the court has a special police force under its service. The court deals with an array of cases regarding environmental violations, such as cutting of trees, improper waste disposal, and sewage spills. The court applies a number of environmental and conservation laws, including the Environmental Protection Act of 2001. A salient feature of this Act is the right of any person to lodge a civil claim in a case where there has been some environmental damage – and the person does not have to prove his or her connection with such damage.

The court has heard and decided a number of cases. Some of these cases involved governmental institutions that violated environmental laws and were brought to the court by the KCDC, and the institutions were fined and ordered to mitigate the environmental damage. Recently, a private company that cut down two trees was fined approximately US\$5,000, and the company was ordered to plant a number of trees and look after them until the trees are mature.

Due to the success of this court in protecting the environment, two other environmental courts were established in Khartoum North and Omdurman Towns in 2000.

For more information, contact Mr. Adil Ali at hcenr@sudanmail.net



Additional Resources on Environmental Courts and Tribunals

Environmental courts exist or are being set up at the national, sub-national, and local levels in many regions. Below are a few resources relating to some of these courts:

Bret C. Birdsong, "Adjusting Sustainability: New Zealand's Environmental Court," in Durwood Zaelke et al., *Making Law Work: Environmental Compliance & Sustainable Development*, Vol. 1, p. 453 (Cameron May 2005).

Environmental Courts <http://www.kab.org/kabtoolbox/toolbox.asp?id=357&rid=358> (discussing options for establishing environmental courts at the community level, with an "Environmental Court Planning Guide").

Environmental Court Project: Final Report http://www.odpm.gov.uk/stellent/groups/odpm_planning/documents/page/odpm_plan_606036-10.hcsp (surveying experiences in Australia, England, New Zealand, and Wales).

New Directions in the Prevention and Resolution of Environmental Disputes – Specialist Environmental Courts, by Paul Stein http://www.lawlink.nsw.gov.au/sc/sc.nsf/pages/stein_2 (paper presented in 1999).

<http://www.law.adelaide.edu.au/library/research/envlaw/courts.html>

(state environmental courts in Australia).

Kenya, The National Environmental Tribunal Procedure Rules (2003), Legal Notice No. 191, published in Kenya Gazette Supp. No. 85 of 31 Oct. 2003 (contact: net@swiftkenya.com).

<http://www.justice.govt.nz/environment/> (home page for New Zealand's Environment Court).

<http://www.epa.gov/oalj/>, <http://www.epa.gov/eab/> (home pages for the U.S. environmental administrative law judges and appeals boards).

See also the discussion and examples relating to judicial matters following Guidelines 32, 41(a)(v), 41(c)(vi), 41(i), 43(c), 43(d), 46, and 47.

Coordination among Government Agencies and Other National Entities

[42] *Coordination among relevant authorities and agencies can assist national enforcement, including:*

- (a) Coordination among various enforcement agencies, environmental authorities, tax, customs and other relevant officials at different levels of government, as well as linkages at the field level among cross-agency task forces and liaison points, which may include formal agreements such as memoranda of understanding and rules of procedure for communication, as well as formulation of guidelines;*
- (b) Coordination by government agencies with non-governmental organizations and the private sector;*
- (c) Coordination among the authorities responsible for promoting licensing systems to regulate and control the importation and exportation of illicit substances and hazardous materials, including regulated chemicals and wastes.*

Just as the environment can be described as a seamless web with each strand dependent upon the other for its continued existence, the management of that web demands an integrated, holistic approach. In other words, approaching various environmental issues in a piecemeal fashion can be problematic: coordination among all levels and sectors of government, and with NGOs and the private sector is key for effective enforcement.

How that coordination and cooperation is fostered and encouraged will vary from country to country. Some nations with a more centralized government will be able to foster it with comparative ease, whereas those with a more decentralized structure may have to expend more effort and even create procedures and mechanisms to facilitate cooperation. Depending on a country's specific needs and the structure of its government, coordination can take the form of informal arrangements and practices or it can be mandated and established by laws, agreements, or guidelines.



NIGERIA'S INSTITUTIONAL RESPONSE TO THE CCD

Prior to the entry into force of the UN Convention to Combat Desertification, certain national and state laws, regulations and institutions relating directly or indirectly to desertification control were already in place in Nigeria. These laws include the Federal Environmental Protection Agency (FEPA) Decree, the National Parks Decree 101 of 1991, the Environmental Impact Assessment (EIA) Decree 86 of 1992, the Endangered Species (Control of International Trade and Traffic in Fauna and Flora) Decree of 1985, the Land Use Decree of 1978 and the National Water Resources Decree of 1993. Some of the institutions responsible for implementing these laws and regulations are policy-making bodies while others are involved in implementation of government policies and projects to prevent and mitigate desertification. The now defunct Federal Environmental Protection Agency was established in 1988 and charged with responsibility for environmental protection, biodiversity and natural resources conservation, including policy matters relating to desertification control. The Agency was the National Focal Point for the CCD in Nigeria.

In 1999, as part of the measure to strengthen the primary national institutions with responsibility for the environment, the new democratically elected civilian government created the Federal Ministry of Environment with the defunct FEPA as the nucleus of the new Ministry. The Federal Ministry of Environment has a range of technical departments, including: Department of Forestry; Department of Soil Erosion, Flood Control and Coastal Zone Management; Department of Environmental Assessment; Department of Pollution Control and Environmental Health; and Department of Environmental Conservation.

Other institutions relevant to desertification control include the following: Federal Ministry of Agriculture and Rural Development; Federal Ministry of Water Resources; Centre for Arid Zone Studies, University of Maiduguri; and Centre for Energy Research, Usman Danfodio University, Sokoto.

Responsibility for the desertification-related matters is also held below the national level in the individual states of Nigeria. The primary institution that is charged with responsibility for desertification control at the state level is either the Ministry of Environment or Ministry of Agriculture and Natural Resources, depending on the state. Other institutions relevant to desertification control include the state Environmental Protection Agencies (SEPA) charged with the responsibility of protection of the environment and biodiversity conservation in the various states. The state Environmental Protection Agencies and the state Ministries of Environment or Agriculture and Natural Resources in the eleven frontline states prone to desertification are members of the National Coordinating Committee on Desertification Control (NCCDC), which provides leverage for effective national coordination of the activities of these various institutions.

For more information, contact fmenv@hyperia.com



BURKINA FASO'S CONFERENCE OF THE NATIONAL COUNCIL ON ENVIRONMENT AND SUSTAINABLE DEVELOPMENT

In 1998, Burkina Faso created the National Council for Environmental Management (CONAGESE) pursuant to Burkina's Environment Code. In 2002, the National Council on Environment and Sustainable Development (CONEDD) replaced the CONAGESE. The CONEDD is charged with promoting sustainable development by facilitating the effective integration of fundamental principles of environmental management into the national and sectoral development policies.

To achieve its goals, the CONEDD has established three bodies: the Conference, the Permanent Secretariat, and Committees. The Conference is the supreme body of the CONEDD. It meets once every two (2) years, and the Prime Minister presides over the Conference. The Permanent Secretariat is responsible for executing and implementing the decisions of the Conference. The Committees are consultative bodies regularly updated by the sessions of the Conference, and they provide advice on priority issues relating to the environment and sustainable development.

As the highest body of the CONEDD, the Conference includes representatives of Government departments and public institutions involved in environmental management and sustainable development, local communities and community organizations, civil society (especially NGOs), religious and traditional leaders, the private sector, trade unions, trade associations of rural producers, and international technical and financial partners. By its composition, the Conference provides a framework for dialogue among the wide range of actors involved in, affected by, and interested in environmental policy and management.

The Conference has convened in twice, once in 2002 and once in 2005. At the first session in 2002, the Conference adopted a number of decisions relating to institutional arrangements to promote sustainable development.

The theme of the second session, which took place in June 2005, was "Reinforcement of the Role of Stakeholders in Environmental Management, the Fight against Poverty, and the Promotion of Sustainable Development." This session brought together approximately 400 participants from the wide range of institutions mentioned above (Government, communities, NGOs, ...). This session lasted four days and included two workshops (in parallel) that focused on two particularly important groups in Burkina Faso: (1) traditional and religious leaders, and (2) environmental educators. Approximately 100 traditional leaders and religious leaders from throughout the country participated, as did many Ministers and other Government officials. The workshops provided an opportunity to exchange ideas and experiences and to communicate directly among the relevant stakeholders.

Burkina Faso's Conference of the National Council on Environment and Sustainable Development (cont'd)

At the end of the workshops, the various stakeholder groups made statements, resolutions, and recommendations in a plenary session. Of note, the traditional and religious leaders made recommendations and committed to taking certain measures on the environment after the Conference.

These periodic sessions of the Conference have been an important way to exchange information and facilitate institutional coordination among the numerous institutions and stakeholders interested in environmental management and sustainable development in Burkina Faso. The exchange of information promotes environmental education and environmental citizenship in the country.

For more information, contact Mr. Barthelemy Kere barthelemy_kere@yahoo.fr



[42(b)]

or Mr. Robert Some somerobert2002@yahoo.fr; see also the case study on "Coordination through Environmental Cells in Burkina Faso" following Guideline 42(b).



DRC's INTER-MINISTERIAL COMMITTEE ON ENVIRONMENT, NATURE CONSERVATION, AND TOURISM

In the Democratic Republic of the Congo (DRC), institutional coordination on environmental matters is done through an Inter-Ministerial Committee on Environment, Nature Conservation, and Tourism. This Committee was originally established by Law No. 75/232 of 22 July 1975.

The Minister of Environment serves as the President of the Committee. Members of the Committee include Ministers whose portfolios address environmental issues in some way; private sector (including the Enterprise Federation of the Congo); civil society; research centres and universities; and local authorities. The Committee has an Executive Secretary to coordinate its activities, as well as national commissions for each sector.

The Committee is responsible for reviewing all projects, programmes, and activities that affect the environment. It also assists the Ministry of Environment in conducting activities. The Committee has, for instance helped prepare the national delegation for MEA negotiations, led the negotiations, and worked to implement MEAs to which the DRC is a Party.

For more information, contact Mr. Kabala Mwanambuyu at mwakabala@yahoo.fr



COORDINATION TO DEVELOP BRAZIL'S NATIONAL PROGRAM TO COMBAT DESERTIFICATION

In order to meet recommendations of the UN Convention to Combat Desertification (UNCCD), Brazil developed a National Program to Combat Desertification (PAN-Brazil). The Program sought to integrate governmental actions (both intra- and inter-governmental actions) with those of non-governmental organizations.

For this purpose, an Inter-Ministerial Working Group was created with representatives of several Ministries of the Federal Government, representatives of State Government, and civil society organizations from the semi-arid region of the country. In order to bring the discussions on combating desertification to the affected region, to decentralize decisions, and to gather information that reflected the needs of the local populations, State Focal Points were designated to work with State and local governments and civil society. Their mission was to encourage discussions in their respective States; carry out diagnoses of the state of the region; together with the community, draft proposals to combat desertification in those areas considered a priority; and execute local projects, always seeking a cross-cutting approach among the institutional structures existing in the States.

The Program benefited significantly from the support given by the working groups that were created to support the work of PAN-Brazil. These include the establishment of the aforementioned Inter-Ministerial Working Group, a working group for civil society of the semi-arid region, and a Parliamentary Working Group (within the National Congress). These working groups were essential for integrating the legislative and executive branches as well as local civil society in the process of developing the PAN-Brazil. The benefits of the integration for developing the National Program have continued through today, as the main agencies responsible for regional development (ADEN, BNB, DENOCS, and CODEVASF) are supporting projects to combat desertification consistent with PAN-Brazil.

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INSTITUTIONAL COORDINATION AND CAPACITY BUILDING IN MOROCCO TO IMPLEMENT THE RIO CONVENTIONS

In order to implement the three Rio Conventions – namely, the Convention on Biological Diversity (CBD), the UN Framework Convention on Climate Change (UNFCCC), and the UN Convention to Combat Desertification (UNCCD) – Morocco undertook to develop and coordinate its environmental institutions. Through this process, Morocco has also sought to build its institutional, human, technological, and financial capacities.

Immediately following the 1992 Rio Earth Summit, the Moroccan Government established a Department of the Environment. Subsequently, Morocco ratified the three Rio Conventions: UNFCCC and CBD in 1995, and the UNCCD in 1996.

Since 1996, Morocco has been setting up the various necessary institutions, with a particular emphasis on building the capacities needed for implementation of the MEAs. This broad process also included a number of analytic surveys, enabling activities, targeted projects, and initiatives to elaborate institutional procedures.

For each MEA, the Ministerial Department which was historically in charge of the MEA designated a focal point. The mission of the focal point is to provide a link between the MEA Secretariat and the Moroccan Government; the focal point also coordinates the ad hoc institutions that were established to facilitate implementation of the MEA. These ad hoc institutions are essentially committees (National Committee on Climate Change, National Committee on Biological Diversity, National Committee to Combat Desertification, etc.), with the respective administrative units serving as the Secretariats for the Committees. The figure on the next page provides an organigramme of the structures set up for each Rio Convention.

These institutions are operating relatively well. One challenge that they face, though, is that they were established through a unilateral ministerial decree, while their composition is cross-ministerial and cross-sectoral. Accordingly, the lack of a legislative mandate can lead to difficulties.

Over the last decade, Moroccan institutions have placed a high priority on strengthening human capacity through training, information, raising awareness, research studies, national reports, and projects. Accordingly, Moroccan environmental staff have participated in many regional and international capacity building events. Morocco organized and chaired the 7th COP of the UNFCCC, and this process mobilized many Moroccan stakeholders and created a dynamism that will facilitate capacity building for implementation of the UNFCCC.

Capacity building activities have been carried out through enabling projects (e.g., capacity building, preparation of national reports, and development of the National Action Plan) and through development projects (e.g., with multilateral and bilateral support). These capacity building activities have led to the establishment of groups of experts with expertise in the three fields relating to the Rio Conventions.

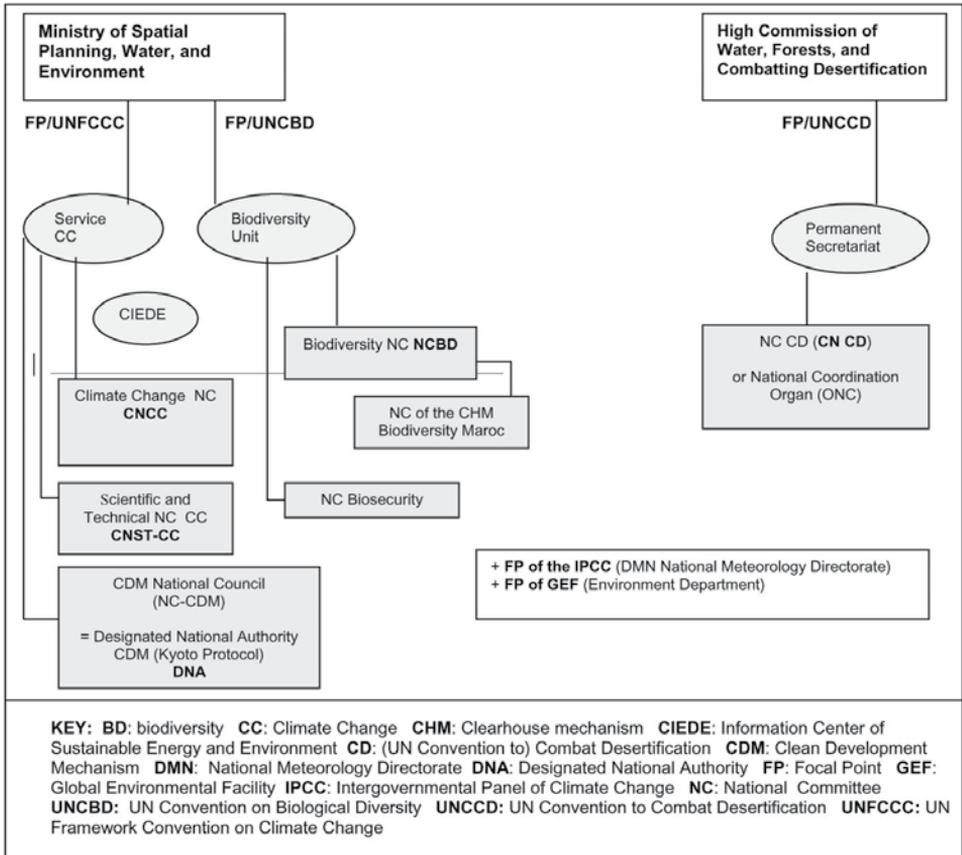
Institutional Coordination and Capacity Building in Morocco to Implement the Rio Conventions(cont'd)

Most of the financial resources for implementing the Rio Conventions – including capacity-building activities, surveys, reports, etc. – come from external sources. These include multilateral sources, such as the Global Environment Facility (GEF), World Bank, United Nations Development Programme (UNDP), and the United Nations Environment Programme (UNEP). Bilateral sources are also important, with support coming from the European Union, Belgium, France, Germany, Italy, Japan, Spain, and the United States, among other States. In general, however, there is little in-country capacity to finance capacity-building activities to implement the three Rio Conventions.

The financial support and capacity building have enabled Morocco to fulfill many of its commitments under the Rio Conventions.

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Morocco's Institutional Framework for Implementation of the Rio Conventions



Inter-Agency Coordination

- [42]** (a) *Coordination among various enforcement agencies, environmental authorities, tax, customs and other relevant officials at different levels of government, as well as linkages at the field level among cross-agency task forces and liaison points, which may include formal agreements such as memoranda of understanding and rules of procedure for communication, as well as formulation of guidelines;*

Enforcement agencies, environmental authorities, and other government agencies that do not have a strictly environmental function (such as tax and customs officials) should work together at all levels to maximize cooperation. Moreover, linkages at the field level among various government bodies (not just the higher levels) are vital if environmental enforcement is to have maximum impact. If a government's structure does not lend itself easily to inter-agency coordination, a variety of tools may be used to provide a framework for cooperation, including memoranda of understanding, coordination guidelines or rules of procedure for inter-agency communications.



In addition to the case studies below, see the case study on “Coordination of MEA Focal Points and Institutions in the Republic of Congo” following Guideline 24

[24]



THE GAMBIA'S NETWORK OF ENFORCEMENT PERSONNEL

The Gambia's National Environment Agency (NEA) is the focal point for the Rotterdam, Basel, and Stockholm Conventions as well as the Montreal Protocol. By virtue of its mandate to oversee and coordinate management of chemicals and hazardous wastes under these MEAs, the NEA established a network of enforcement personnel in all five geographic Divisions of The Gambia. This network seeks to respond to the limited personnel resources within the Inspectorate of the NEA. The network comprises personnel from the Departments of Agriculture, Livestock, Health, and Customs. A Ministerial Decree and Gazette sanctioned the appointment of the personnel. As members of the network, the enforcement personnel act as inspectors for monitoring chemicals, including those covered by the Rotterdam (PIC) and Stockholm (POPs) Conventions. NEA inspectors cover the greater Banjul Area. The members of the network are all tasked with the same responsibilities; different members do not cover different chemicals. The NEA, through the Agricultural Divisional Coordinators, is responsible for the coordination of the network. For more information, contact fjndoye@qanet.gm or nea@gamtel.gm.

As a practical matter, there is a separate network for each MEA (or cluster of MEAs) due to the differences between the MEAs and the relevant agencies involved. Thus,

The Gambia's Network of Enforcement Personnel(cont'd)

for other MEAs – such as the UNCCD, CBD, and UNFCCC – which are administered by other institutions in The Gambia, other inspectors are charged with ensuring compliance.

For more information, contact Mr. Bubupateh at bubupateh@yahoo.com (UNFCCC); Dr. Almamy Camara at wildlife@gamtel.gm (CBD); and Mr. Jato Sillah at forestry.dept@gamtel.gm (UNCCD)



MAURITIUS' ENVIRONMENT COORDINATION COMMITTEE

The enforcement agencies in the small island State of Mauritius cuts across sectoral lines as expressly provided under its Environment Protection Act, 1991 (as amended by EPR Amendment No. 11 of 1993) which identifies the enforcement agencies in the State strictly by specified environmental medium and pollutant. It prescribes their functions, duties and powers in the Act as follows:

- in relation to air, noise, quality control of water supplied for drinking and domestic purposes - the Permanent Secretary, Ministry of Health;
- in relation to inland waters and effluents - the Permanent Secretary, Ministry responsible for the subject of water resources;
- in relation to solid waste - the Permanent Secretary, Ministry of Local Government;
- in relation to pesticide residue and to waters in the zone - Permanent Secretary, Ministry of Agriculture, Fisheries and Natural Resources;
- in relation to National Environmental Standards, affecting the island of Rodrigues, the Island Secretary for Rodrigues; and
- where no enforcing agency is specifically designated in relations to any medium or any pollutant, the Department of the Environment is deemed to have responsibility for exercising the functions of an enforcing agency in relation to that medium or pollutant.

The Act establishes the Environment Coordination Committee to coordinate the activities of the enforcing agencies and generally for the purposes of the Act. It consists of: the Permanent Secretary of the Ministry having responsibility for the environment as Chairman; the enforcing agencies or their representatives; the environment liaison officers; the Director of the Department of Environment; the Deputy Director of the Department; and any other public officer designated by the committee. The committee does the following:

- develops policies and administrative measures that are necessary to ensure prompt and effective consultation on matters relating to environment protection and management;

Mauritius' Environment Coordination Committee (cont'd)

- ensures that information is shared among the enforcing agencies, the Department and other public departments in order to develop a better understanding of environmental issues and of problems relating to enforcement of environmental laws;
- advises the Minister with responsibility for the environment, and where requested, the National Environmental Commission, on matters relating to environmental standards, guidelines, codes of practice and other control measures for the purpose of avoiding duplication of functions among public departments and of ensuring proper enforcement of environmental laws; and
- generally to ensure maximum cooperation and coordination among enforcing agencies and other public departments dealing with environmental protection.

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IMPROVING INSTITUTIONAL COORDINATION IN CAMEROON, ESPECIALLY RELATING TO MEAS

Cameroon's Permanent Secretariat of the Environment was recently transformed into the Ministry of Environment and Nature Protection (MINEP), headed by a Minister and a Deputy Minister (Ministre Délégué). While the Minister's functions include the elaboration, implementation, and evaluation of Government policy on the environment, the Deputy Minister is specifically in charge of the environment and following up on all relevant Conventions. In addition, the Deputy Minister represents MINEP at important forums and events when the Minister has other commitments. This innovative division of authority is intended to strengthen the institutional framework for environmental management in general, and specifically to draw attention to the implementation of MEAs, which had hitherto received little attention. Furthermore, the President of Cameroon signed Decree No. 2005/117 of 14th August 2005, which formally organised the Ministry. The Decree creates, inter alia, the Division of Studies, Projects and Cooperation whose functions include the preparation for international agreements and conventions, as well as following up on their execution in coordination with the relevant departments of other concerned Government ministries. Responsible officers have been appointed to fill the posts created.

MINEP is the institutional focal point for most MEAs. [Other Ministries and administrations have the lead responsibility for a few specific MEAs, including CITES, CMS, UNCLOS, the London Dumping Convention, and a few others.] As such, MINEP has appointed national focal points to reactivate activities related to all the MEAs to which Cameroon is Party. These national focal points are responsible for the day-to-day activities implementing the respective MEAs and following up on the recommendations.

Cameroon has established various inter-ministerial committees to coordinate implementation of most MEAs. Among other things, these committees are responsible for overseeing the development of Action Plans to implement the MEAs. These include, for example, the Interministerial Committee on Biosafety, the National Commission on the Environment and Sustainable Development, and the Inter-ministerial Committee on the Environment.

Implementation of Cameroon's MEA commitments is facilitated by multistakeholder involvement in the negotiations. Cameroon's delegation to MEA negotiations often includes representatives from the various relevant ministries as well as NGOs. This multistakeholder participation has the advantage that once the delegation returns home, implementation is eased as the various administrations that were represented at the forum have an interest in the outcome and are better able to take the necessary actions in their particular sector.

Improving Institutional Coordination in Cameroon, Especially Relating to MEAs (cont'd)

At the beginning of each year, each Ministry prepares a list of International meetings that are anticipated. At this time, the Minister and the Deputy Minister decide, according to their respective commitments, who will participate in which MEA COPs and other international events.

For more information, see <http://www.spm.gov.cm> or contact Mr. Peter Enoh enohpeter@yahoo.fr or Ms. Mary Fosi mary_fosi@hotmail.com



INSTITUTIONAL COORDINATION OF BRAZILIAN MINISTRIES IN IMPLEMENTING THE ANTARCTIC TREATY

The Brazilian Antarctic Program (PROANTAR) is an inter-ministerial program of the Inter-Ministerial Commission for Marine Resources (CIRM) and its Executive Office (SECIRM). PROANTAR is located in the Ministry of Defense, under the responsibility of the Brazilian Navy. While PROANTAR is not a program of the Ministry of Defense, its coordination is located there. The Ministry of the Environment and the Ministry of Science & Technology – through the National Council for the Development of Science and Technology (CNPq) – also play an important role in the program.

The respective Ministries coordinate operations through different administrative groups, with each Ministry taking the lead responsibility for one group. SECIRM, through the Operational Group (GO), plans and coordinates Antarctic expeditions and associated logistics, provides support to the scientific activities, and is responsible for keeping the Brazilian Antarctic Station “Comandante Ferraz” operational. CNPq, through the Scientific Advisory Group (GA), evaluates the scientific proposals submitted to the program, approving those that show scientific merit. The Ministry of Environment, through the Environmental Assessment Group (GAAM), evaluates the impacts that the scientific and logistical activities may cause to the Antarctic environment, and is responsible for enforcing the Madrid Protocol’s directives.

For more information, see https://www.mar.mil.br/secirm/p_in20.htm (SECIRM) and <http://www.mma.gov.br/tomenota.cfm?tomenota=/port/sbf/dap/antartic.html&titulo=Antártica%20e%20Programa%20Antártico%20Brasileiro> (Ministry of the Environment).

Coordination Between National and Sub-national Governmental Units

In addition to coordination between and among governmental bodies at the national level, it is important to consider means for coordination between national environmental authorities and the corresponding agencies at the sub-national level (whether they are provinces, states, oblasts, municipalities, or other administrative unit). While such coordination is especially important in States with federal systems (see, e.g., the case study below on the United States), it is also a consideration in non-federal systems (see, e.g., the case studies below on Benin and Uganda). In fact, within the broader context of decentralization of authority and responsibilities for managing natural resources and addressing other environmental matters, coordination between national and sub-national units is gaining importance in many non-federal States.



NATIONAL / SUB-NATIONAL RELATIONSHIPS IN FEDERAL SYSTEMS: STATE / ENVIRONMENTAL PROTECTION AGENCY ENFORCEMENT AGREEMENTS IN THE UNITED STATES

In the United States of America, environmental management policy is based on the premise that those closest to the environmental problems are most familiar with them and best able to provide an effective enforcement presence in the field. At the same time, there is a natural human tendency to protect local jobs and investment that should not be allowed to occur by environmentally unsustainable practices. To implement the nationwide pollution-control program, most national laws provide for the national U.S. Environmental Protection Agency (USEPA) to delegate its authority to programmes of the 50 States that comprise the United States, provided that they are operating at or equivalent to USEPA's national standards. While most day-to-day enforcement and compliance assurance activities are decentralised, USEPA maintains a parallel, national enforcement presence to ensure a fair and level competitive playing field throughout the country. [For a more complete description of environmental federalism in the United States, see the case study on "Vertical Designation of Enforcement Responsibilities for Enforcing Pollution-Control Laws in the United States", following Guideline 41(a)(i)].

Because of parallel national and sub-national enforcement authorities, a high level of coordination has been institutionalised by USEPA with state pollution-control programmes. The framework for coordinating national oversight of state programs and assessing state performance was formalised in the 1986 "Revised Policy Framework for State/EPA Enforcement Agreements." The 10 USEPA Regional Offices and most of the 50 States enter into annual agreements that establish roles, responsibilities, and commitments for state enforcement and assistance to achieve compliance with the pollution-control laws. Criteria for good state performance are set, and USEPA uses these criteria to make the decision as to when to take national enforcement action within a State. The principle of "no surprises" obliges USEPA to consult with States on their activities and to work cooperatively with them. The annual agreements typically become part of national programme grants of funds to States. (USEPA's national grants are an important financial incentive to ensure that States have the capacity to effectively implement State pollution-control programmes.)

National/Sub-national Relationships in Federal Systems: State/ Environmental Protection Agency Enforcement Agreements in the United States (cont'd)

Recognising the importance of States in environmental planning and implementation, USEPA began a new effort in the early 2000s to align national and state planning. Based on USEPA's Strategic Plan, now each USEPA national programme office must prepare National Program Guidance with national priorities and measures of performance. Then, USEPA headquarters and the 10 Regional offices in consultation with the States prepare a biennial set of commitments for accomplishing the national plan and guidance at the sub-national level. Regions and States negotiate these commitments and express them in environmental grant or performance agreements, with precise outcome and output measures of state performance. These include measures for state enforcement and compliance if they are not already expressed in a separate State-USEPA Enforcement Agreement. EPA conducts national oversight of state environmental enforcement and compliance programmes, also based on the principles of the original Policy Framework and the controlling EPA-State agreements. To facilitate coordination between national and sub-national authorities, it can be useful to establish task forces that include personnel from relevant federal agencies and state and local agencies. This can help to ensure more efficient and effective use of enforcement resources.



CAPACITY BUILDING FOR DISTRICT BY-LAW FORMULATION AND ENFORCEMENT IN UGANDA

Uganda is implementing a policy of decentralization which entails a transfer of rights, responsibilities, and authorities to local governments. Environmental management is a sphere that has been decentralised to local authorities. The National Environmental Management Authority (NEMA) plays a key advisory role regarding management of natural resources by local governments. Under the National Environmental Act, NEMA assists District Councils and lower local councils to formulate and enforce environmental bye-laws as part of the Environmental Action Planning Process. This process seeks to identify environmental issues in need of regulation or existing environmental by-laws that need reinforcement.

The bye-law formulation and enforcement process incorporates a significant element of public participation, since bye-laws are based on the premise that public awareness and endorsement is the key to successful implementation.

NEMA has been building the capacity of district and community leaders to formulate and enforce environmental by-laws. This training seeks to:

- introduce environmental regulation as a tool for environmental management at the community level;

Capacity Building for District By-Law Formulation and Enforcement in Uganda (cont'd)

- enhance the capacity of the local leaders to formulate environmental by-laws especially regarding decentralized environmental functions and services; and
- raise awareness of the local leaders and communities and generate a common understanding of the procedures to be followed in environmental by-law formulation and enforcement.

The targeted audience includes local leaders, district and sub-county councilors, district technical staff, sub-county chiefs, resident state attorneys, and local police. These various officials and staff play distinct, but key, roles in formulating and enforcing environmental by-laws, including:

- identifying environmental problems that need regulation;
- drafting by-laws;
- passing and enacting by-laws; and
- monitoring compliance with by-laws and enforcing them as necessary.

For more information, contact Ms. Christine Akello at cakello@nemaug.org or info@nemaug.org



IMPLEMENTING MEAS IN THE DECENTRALIZED CONTEXT OF BENIN

The Republic of Benin is situated in West Africa, with a surface area of 112,622 km² and a population of approximately 6.8 million inhabitants. As of 2002, approximately 61 percent of Benin's inhabitants lived in rural areas. Forests and wooded lands cover approximately 6.2 million hectares, or about half of the usable lands. Protected areas (including national parks and hunting areas) cover 2.6 million hectares, or about 24 percent of the national area.

Many environmental problems were identified at the local level. To address these challenges, Benin adopted various participatory approaches to involve communities in environmental and natural resource management. The new context of decentralization enabled the Government to adopt these participatory approaches.

The legal framework for decentralization is laid out in two laws: Article 20(2) of Law 97-028 of Jan. 15, 1999 on the organization of the territorial administration of Benin, and Article 94(1) of Law 97-029 of Jan. 15, 1999 on the organization of municipalities in Benin). These provisions make municipalities (i.e., local governments) and the local populations the main actors in implementing and applying MEAs. Following are two examples of decentralized implementation of MEAs in Benin.

Implementing MEAs in the Decentralized Context of Benin (cont'd)

Combating Desertification

In fighting desertification, local populations play an important role, especially with respect to land use decisions. Accordingly, Benin created local committees to combat desertification. These local committees coordinate the actions of villages with respect to desertification. Similarly, municipal committees coordinate the desertification-related actions of municipalities.

Every year, wild fires and forest fires significantly affect broad areas of land. To prevent and minimize the harm from these fires, youth groups were established in villages to fight fires. They are responsible for raising public awareness in the villages during each dry season regarding the dangers of fire and also to put out fires that do occur during this period. These groups receive materials from governmental bodies, NGOs, and development partners.

Sustainable management of forests is another key element of the fight against desertification. Toward this end, Benin has initiated the participatory management of forests. In particular, local communities are now managing 14,000 hectares of teak forest through the Participatory Forest Management Committees (known by their acronym in French, COGEPAF). The communities in these committees participate in activities relating to the planting, management, cleaning, and protecting of the teak plantations. This includes protecting the trees from theft and fire.

In exchange for their efforts to manage and protect the teak forests, the COGEPAFs receive a portion of the harvested timber, which they can sell (and keep the proceeds of those sales). The individual persons who participate in the management of the teak forests receive 84 percent of the proceeds of the sale, with the remaining 16 percent going to the community to use for infrastructure development within the community (e.g., schools, health clinics, wells, or water sources). This community-based approach to managing teak forests is currently being pursued in the forests of Lama, Toffo, Agrimey, and Djigbé.

Conserving Biological Diversity

To ensure the sustainable management of national parks (including Pendjari Park and W of Niger Park), Benin has initiated an approach of co-managing the parks and their resources with local communities. Through these programmes, the communities are considered as partners. The communities participate through their organization, the Villagers' Association for the Management of Wildlife Reserves (known by its acronym in French, AVIGREF). The different AVIGREFs came together to form a union. Working with the National Centre for Management of Wildlife Reserves (known by its acronym in French, CENAGREF), a state structure, the union of AVIGREF leads activities relating to surveillance, management, awareness raising, conservation, and use. Income from the use of these Resources is distributed between the state and the communities, with 70 percent going to CENAGREF and 30 percent to the AVIGREFs. Communities use these funds to support to infrastructure development within their communities (schools, health clinics, wells, etc.). In 2005, the union of the AVIGREFs received a total of CFA35 million (approximately US\$70,000) for tourism- and hunting-related activities.

Implementing MEAs in the Decentralized Context of Benin (cont'd)

Benefits of Decentralization and Participatory Management

The different participatory and decentralized approaches to implementing MEAs in Benin have yielded positive results to the environment while also fighting poverty. The organization of communities to fight wildfires and forest fires has reduced the areas that were burned every year. Similarly, considerably fewer people have died in these fires since the start of the community organizations. Accordingly, villagers have seen more cashew trees (*Anacardium occidentale*) growing and the harvests are better protected. In national parks, poaching has decreased, revenues have increased, and communities have used revenues to build necessary infrastructure. The communities that were involved in managing the teak forests have similarly received revenues that they have used to build community infrastructure works (including the installation of a telephone network in some communities). From an environmental perspective, the forests are better protected against theft and fire.

For more information on decentralization generally, see <http://www.mehubenin.net> or contact cbbes_ong2002@yahoo.fr

Coordination with NGOs and the Private Sector

[42] (b) *Coordination by government agencies with non-governmental organizations and the private sector.*

Just as NGOs and the private sector can improve a State’s record in environmental compliance when they are given access to environmental information, so coordination between government bodies and these entities can also strengthen enforcement. In many States, NGOs serve as unofficial “watchdogs” and their resources and dedication can support official enforcement efforts. In the same vein, the private sector can do a better job of self-policing and governing their own compliance if the government approaches compliance matters with them in a coordinated and cooperative fashion.

In addition to the case studies below, see the examples following Guidelines 41(k) and 48 (especially “Benin’s Experience with International Cooperation in Managing Protected Areas”).



[11(d)]

CH II - D



COMMUNITY-BASED TROPHY HUNTING PROGRAMME IN PAKISTAN

The Government of Pakistan has undertaken a variety of measures to implement CITES, to which it became a party in 1976. It imposed a moratorium on commercial trade of mammals, reptiles, and protected birds, and it has turned down numerous requests for the export of fresh water turtles to specific States. Like exports, import of CITES-listed species is also strictly regulated. Along with strict punitive interventions, the Government of Pakistan has also introduced incentive-based programmes to allow local communities to benefit from the sustainable management of biodiversity.

Pakistan pioneered development of the concept of the Community Based Trophy Hunting Programme (CBTHP). At the 10th meeting of the CITES Conference of Parties (COP) in 1997, Pakistan requested a Markhor-quota (*Capra falconeri falconeri*) for CBTHP in Northern Pakistan, including the Northern Areas and North West Frontier Province. This request of Pakistan was honoured, and a quota of six trophies was allocated for Pakistan.

The CBTHP seeks to use the revenues received from the trophy hunting fees to generate income and other sustainable development activities in the areas. 80 percent of the revenue goes to the community and 20% goes to the respective government agencies as an administrative fee. After allocation of a quota, for a non CITES listed species, trophy hunting was first allowed in the Bar Valley of Northern Pakistan, where an abundant population of Ibex (*Capra ibex sibirica*) was selected for implementation of the programme. The Mountain Areas Conservation Project (MACP) — a joint project between the Government of Pakistan, the Global Environment Facility (GEF), UNDP Pakistan, and IUCN — has taken a lead role in administering the CTHP. The community based

Community-Based Trophy Hunting Programme in Pakistan (cont'd)

organisational structures established in the project conservancies in Northern Pakistan are being used for the CBTHP.

The response of local communities has been encouraging, and the confidence building measures of the CBTHP have promoted sustainable management of biodiversity. As a result of the CBTHP interventions, the population of the trophy species has greatly increased as the community is not only protecting the wildlife from illegal hunting but is also assisting the MACP in promoting other measures enhancing their sustainability. As a result of unprecedented success in the past five years, the trophies quota has now been increased to 12 by the CITES COP (at COP12 in 2002). Because of its success, this approach is being extended to other parts of Pakistan. Details of the trophies so far hunted and revenue generation through CBTHP is given in the following table.

Revenue Generation from Community-Based Trophy Hunts in Pakistan

	No. of Trophy hunted in year	Status	Ungulate hunted	Trophy size	Nationality of Hunter	Trophy fee US\$	Gov't Share (20%) US\$	Community Share (80%) US\$
1 st	One-1999	Unsuccessful	Himalayan Ibex	unknown	Canadian	3,000	600	2,400
2 nd	One-2000	Successful	Astore markhor	37 inches	American	25,000	5,000	20,000
3 rd	One-2002	Unsuccessful	Astore markhor	unknown	American	12,500	2,500	10,000
4 th	One-2003	Successful	Astore markhor	35 inches	American	25,000	5,000	20,000
5 th	One-2003	Successful	Himalayan Ibex	38 inches	Spanish	3,000	600	2,400

For more information, contact Dr. Muhammad Khurshid at khurshidswati@yahoo.com



PUBLIC INVOLVEMENT IN MALAWI'S NATIONAL COUNCIL FOR THE ENVIRONMENT

Malawi has formally created a basis for coordination within its national environmental policy through Act No. 23 of 5 August 1996. Section 9 of the Act established the National Council for the Environment which consists of:

- the Chairman of the Council who is appointed by the President on the recommendation of the Minister;
- the Secretary to the President and Cabinet, or their representatives;
- the General Manager of the Malawi Bureau of Standards, or his representative;
- the General Manager of the National Herbarium and Botanical Gardens of Malawi, or his representative;
- one member nominated by and representing the industrial sector and appointed by the Minister;
- one member nominated by and representing non-governmental organizations concerned with the protection and management of the environment and the conservation of natural resources and appointed by the Minister;
- one representative of the University of Malawi appointed by the Minister; and
- one member nominated by and representing the National Commission for Women in Development and appointed by the Minister.

The Council has responsibility to:

- advise the Minister on all matters and issues affecting the protection and management of the environment and the conservation and sustainable utilisation of natural resources;
- recommend to the Minister measures necessary for the integration of environmental considerations in all aspects of economic planning and development; and
- recommend to the Minister measures necessary for the harmonisation of activities, plans and policies of lead agencies and non-governmental organization concerned with the protection and management of the environment and the conservation and sustainable utilisation of natural resources.



ENSURING IMPLEMENTATION THROUGH COMPENSATION, RETRAINING, AND REINSTALLATION IN SEYCHELLES

In the early 1990s, the Seychelles Government determined that hawksbill turtles (a CITES-listed species) had been over-harvested and that there was a need to implement legislation banning any form of consumptive exploitation, including the use of turtle shell for local craftwork. Seychelles also wanted to stop all exports of hawksbill shell. Local trade in souvenirs crafted from turtle shell and export of raw shell had been well-established, and it generated approximately US\$300,000 in annual income for local artisans and fishermen.

To ensure the success of the proposed legislation, the Government set up a unique Artisan Compensation, Training & Reinstallation Programme, with assistance from GEF and the World Bank. A total of 37 turtle shell artisans were registered under the project, and they were compensated for approximately 2,500 kg of raw shell and objects made out of turtle shell. As compensation, the Government purchased the materials at a cost of US\$95,000, an amount that was based on income tax paid in previous years.

The second, more important component of the programme – artisan training and reinstallation – aimed at launching artisans into new forms of employment such as carpentry and farming. US\$345,000 was spent to provide informal training, purchase equipment, etc. The total costs of both programme components were split between GEF and the Government of Seychelles. In 1995, the Government implemented legislation protecting sea turtles from consumptive exploitation. The Artisan Compensation, Training & Reinstallation Programme proved to be successful environmentally, as well as socially and economically.

For more information, contact Jeanne Mortimer at jmort@nersp.nerdci.ufl.edu



COOPERATIVE EFFORTS IN ENVIRONMENTAL MANAGEMENT IN THE PHILIPPINES

In the Philippines, the Kabang Kalikasan ng Pilipinas Foundation, Inc, a non-governmental organization geared toward the protection of the country's fishery resources, has entered into a memorandum of agreement among the different government agencies, namely the Departments of Environment and Natural Resources, Agriculture, Interior and Local Governments, National Defense, Transportation and Justice. Its purpose is to consolidate efforts in order to efficiently manage the country's marine resources as well as effectively implement and enforce law and regulations relative thereto.

Philippine Council for Sustainable Development

The Philippine Council for Sustainable Development (PCSD) was created by Executive Order to monitor environment and sustainable initiatives in the country. It provides guidance in the form of policy reforms, programmes, and new legislation to address continuing and emergent issues. The PCSD includes government representatives as well as members of civil society. Through the Council, the Philippines undertook concrete steps toward sustainable development, for example by formulating the Philippine Agenda 21 as the State's blueprint for sustainable development. The PCSD is mandated to oversee the implementation of the Philippine Agenda 21 by providing the coordinating and monitoring mechanisms for its implementation. It is also authorized to mobilize coordinating bodies, including regional and local councils for sustainable development, for this purpose.

To effectively carry out its functions, the PCSD created committees and sub-committees with mandates to address specific concerns. The Director General of the National Economic Development Authority (NEDA) is the Chairperson of the PCSD, while the Secretary of the DENR is the Vice-Chairperson. The membership of the Council is composed of various governmental departments and civil society organizations. The four Committees created correspond to the four major areas of concern in the global Agenda 21, and they are: the Committee on the Social and Economic Dimension, the Committee on Strengthening the Role of Major Groups, the Committee on Means of Implementation, and the Committee on Conservation and Management of Resources for Development.

For more information, contact pcsd@neda.gov.ph



COORDINATION WITH THE PRIVATE SECTOR TO DEVELOP PROJECTS IN GEORGIA

In Georgia, the Government has developed a cooperative approach with the private sector in conceptualizing, developing, and implementing projects to implement MEAs. Various Governmental agencies and ministries coordinate with private industries and private engineering-consulting companies in the following contexts:

- Development of Project Idea Notes and Project Concepts. During the conceptualisation of GEF projects, the Government studied and involved several industrial enterprises in assessing the technology needs, modalities for addressing the needs, and possible projects. Moreover, private companies cooperated in the development of Project Idea Notes aimed at abating greenhouse gas emissions;
- Development of Project Proposals and Project Design Documents (for CDM projects). Georgia has prepared a number of investment project proposals for GEF financing (including rehabilitation of small hydropower plants and heat and hot water supply systems). Private companies that owned some of these facilities provided input, including financial resources, in developing these proposals. Similarly, a project that was recently started with TACIS funding (Technical Aid to the Commonwealth of Independent States) foresees development of at least 2 Project Design Documents to be implemented under the clean development mechanism (CDM). These Documents will be developed in cooperation with private companies; and
- Implementation of the projects.

For more information, contact Mrs. Nino Gokheshvili at gmap@access.sanet.ge



PUBLIC COORDINATION COUNCIL IN BELARUS

In 2002, the Ministry of Environmental Protection established a Public Coordination Council to foster dialogue with the public. It includes representatives from environmental NGOs, women's and youth groups, and other organisations. This body has provided a forum for the Ministry to consult with the public regarding significant environmental decisions, and particularly those relating to the Aarhus Convention. For example, through this Council, the Ministry provided the public an opportunity to review and submit extensive comments on a draft regulation on environmental impact assessment.

For more information, contact minproos@mail.belpac.by



PUBLIC-PRIVATE MANAGEMENT OF THE GOLA RAINFOREST CONSERVATION CONCESSION PROJECT IN SIERRA LEONE

The Gola Forest Reserves, covering an area of 74,800ha, are located along the southeastern border of Sierra Leone. This is a priority area for biodiversity conservation in the Upper Guinea Forest Zone and the key forest conservation area in Sierra Leone, representing 50 percent of the country's remaining Upper Guinea Lowland Rainforest.

The Gola Rainforest Conservation Concession project is a new initiative that seeks to secure the long-term conservation of the Gola forests for biodiversity by upgrading the forest reserves to a national park. The project has three phases. In the first phase, a management plan will be developed over a period of two years. This plan will form the basis for a long-term conservation concession agreement, as well as spelling out the key steps necessary for the forest reserves to be gazetted as a national park in the second phase, a 25-year period of the concession. Funds for the first phase have been secured from the Global Conservation Fund, the Royal Society for the Protection of Birds (RSPB), and other donors. The RSPB and the Conservation Society of Sierra Leone (CSSL) formally applied to the Government of Sierra Leone for a conservation concession for the Gola Forest Reserves. This has been approved, and the development phase will commence soon.

To achieve the protected area objectives through a conservation concession approach, RSPB and CSSL will engage stakeholders at a variety of levels. They will: form a project partnership that will jointly own the concession; engage the Forestry Division and build its capacity to enable it to patrol the reserves effectively, and engage the seven chiefdom communities around the reserves by supporting community development and participation in the day-to-day management of the reserves.

The actual royalties and fees to be paid will be negotiated on the basis of the forest being protected as an asset and the level of support and engagement given to the Forestry Division in the long-term management of the reserves. Community royalties will be negotiated based on the roles and responsibilities that communities will have in managing the reserve and the amount of development support they receive. A Trust Fund will be established to support the core operational costs of the concession. These costs will include staff, logistics, maintenance, patrolling, community development support, and biodiversity conservation.

For more information, contact cssl@sierratel.sl



PARTICIPATORY MAPPING AND INDIGENOUS COMMUNITIES

Participatory mapping is an emerging tool to empower local communities and indigenous peoples to become more involved in natural resource management and environmental protection. The Center for the Support of Native Lands has been a pioneer in participatory mapping, particularly of indigenous lands in Central and South America, but also in Africa and Southeast Asia. Since the early 1990s, Native Lands has refined its methodology, which is set forth in *Indigenous Landscapes: A Study in Ethnocartography* (2001). This in-depth analysis of participatory mapping projects constitutes a practical guide to community mapping with indigenous peoples worldwide.

Indigenous Landscapes describes an approach consisting of three to workshops interspersed with two fieldwork periods. This typically takes approximately three to four months. Project participants are indigenous researchers, a small cartography team, and project directors. Indigenous researchers chosen by the communities gather data for the maps, which contain three types of information: (1) the salient features, natural and man-made, of the territory being mapped (rivers, creeks, swamps, hills; villages, roads, trails), together with their names; (2) zones used for subsistence activities (hunting; fishing; farming; gathering of medicines, fruit, and building materials; and any other significant cultural use area); and (3) areas of cultural and spiritual importance. During the process, the cartographers assist the indigenous people to put this information onto cartographically accurate maps. The first workshop, of a week in duration, orients participants to the process and discusses data gathering techniques, map symbolism, and the general structure of the project. The indigenous researchers then spend approximately one month in their communities piecing together information from village elders and those knowledgeable about the forest and placing this information on hand-drawn sketch maps. At the end of this period, they return for a second workshop in which they work with the cartographic team to transcribe this information onto georeferenced maps. Over a period of two to three weeks, the researchers and the cartographers work with field data, aerial photographs, satellite images, and government base maps, cross-checking the different types of evidence to produce a new map containing a wealth of cultural information



Participatory Mapping in Papua New Guinea.

Mac Chapin (2006)

Participatory Mapping and Indigenous Communities (cont'd)

of the region. When this is completed, the researchers return to the communities to verify the draft maps, fill in gaps, clear up confusions, and generally fine-tune the maps. There is ample time at this juncture for the villages to discuss a variety of issues among themselves. In the third workshop the researchers work with the cartographic team to finalize the maps.

Participatory mapping has proven to be an integral tool to informed decisionmaking, environmental protection, and empowerment of indigenous and traditional peoples. The maps have been used as a basis for designating biosphere reserves and indigenous areas, as well as developing management plans for national parks. The maps and the process of developing the maps have strengthened community-based natural resource management, and are used in local schools. They have identified and fortified connections between forest protection and indigenous territories. By fostering conservation partnerships, illegal logging has diminished significantly in certain mapped areas. Developing the maps have built local capacity and stimulated the formation of strategic alliances nationally and regionally through exchange of information and discussion of common problems and strategies. Accordingly, indigenous peoples today are participating more fully than they were a decade earlier in decisions affecting their homelands, their natural resources, and their cultures.

For more information, see <http://www.nativelands.org>



A PUBLIC-PRIVATE PARTNERSHIP TO DEVELOP SEYCHELLES'S NATIONAL PLANT CONSERVATION STRATEGY

In 2002, an NGO named Plant Conservation Action Group (PCA) was established to promote plant conservation in Seychelles. That same year the CBD COP adopted, through decision VI/9, a Global Strategy for Plant Conservation (GSPC), which called for nations to develop outcome-oriented targets for conserving biodiversity and to incorporate those targets into national strategies. With the GSPC, PCA recognised that a National Plant Conservation Strategy would assist tremendously to furthering plant conservation in Seychelles.

The NGO initiated discussions with the Ministry of Environment and Natural Resources and proposed to organise a national workshop to develop a national strategy addressing the 16 main targets of the global strategy in the specific context of Seychelles. Within the Ministry, the National Parks and Forestry Section and the Botanical Gardens were fully involved in preparing the logistics of the workshop, as well as presenting their work in in-situ and ex-situ conservation.

The workshop and subsequent development of the national strategy have been a joint effort, with both the Government and the PCA contributing financial and in-kind resources. Moreover, they have engaged a wide range of different stakeholders and

A Public-Private Partnership to Develop Seychelles's National Plant Conservation Strategy (cont'd)

assisted in prioritising and streamlining efforts to promote plant conservation so as to derive maximum benefits from the limited resources available. The final strategy is expected to be published before the end of 2004.

For more information, contact Denis Matatiken boga@seychelles.net or Frauke Fleischer-Dogley ffdogley@tourism.sc



COORDINATION THROUGH ENVIRONMENTAL CELLS IN BURKINA FASO

Burkina Faso has established "environmental cells" to facilitate institutional coordination on environmental projects. The Permanent Secretariat of Burkina's National Council on Environment and Sustainable Development (CONEDD) is responsible for integrating principles of environmental protection and sustainable development in the development and the implementation of the policies and sectoral strategies. As one approach to realizing its environmental and sustainable development goals, the Permanent Secretariat is establishing environmental cells.

These environmental cells include representatives from the relevant Ministries, publicly-owned establishments, and private companies whose activities relate to the environment. In particular, the environmental cells seek to ensure that the design and the implementation of projects take into account the principles and procedures of environmental impact assessment. This is important because environmental impact assessments in Burkina Faso are a key measure for sound environmental management and protection in the execution of the projects and programmes. As of 2006, three environmental cells are functional.

For more information on CONEDD, see the case study on "Burkina Faso's Conference of the National Council on Environment and Sustainable Development" following Guideline 42. For more information, see <http://www.spconedd.bf> or contact Mr. Barthelemy Kere barthelemy_kere@yahoo.fr or Mr. Robert Some somerobert2002@yahoo.fr



[42]



ECOTOURISM CONCESSIONS IN IVORY COAST

For a few years, the Ivory Coast has engaged in the progressive development of a legal and institutional framework to better manage its national parks.

This policy development culminated in the adoption of Law No. 2002-102 of February 11, 2002 on the creation, management, and financing of national parks and natural reserves. The Law and Decree No. 2002-359 of 24 July 2002 also created the Ivoirean Office Parks and Reserves (known by its French acronym, OIPR).

Article 32 of the Law allows the OIPR to grant ecotourism concessions within national parks and reserves to either natural or legal persons. A concession may be for part or all of the park or reserve, and the concession must be consistent with the character of the park or reserve. The Minister in charge of parks and reserves has the responsibility to approve concession agreements between the OIPR and the concessionaire.

The concessionaire must adhere to the policy objectives relating to ecotourism development within the park. These policy objectives are set forth in Articles 2 and 3 of the Law on national parks and natural reserves. The concession agreement defines the particular conditions and the procedures for establishing, operating, and managing the ecotourist activities, works, installations, and equipment in the particular national park.

For more information, contact the OIPR Director Aidara Gouesse oipr@aviso.ci; oipraidara@yahoo.fr; tel.: +225-22406116/22406110; fax: +225-22406119



PUBLIC-PRIVATE DIALOGUES IN BRAZIL

In order to enhance its efforts to address the causes and effects of climate change and biodiversity loss in its territory, Brazil has created a space for dialogue between Government and civil society. This effort includes two particularly innovative initiatives: the Brazilian Forum on Climate Change and the Paulista Forum on Global Climate Change and Biodiversity.

The Brazilian Forum on Climate Change (known by its Portuguese acronym FBMC) was created in 2000. Its initial objective was to prepare the Brazilian President at the time, Fernando Henrique Cardoso, to negotiate with other States at the upcoming Conference of the Parties (COP) of the UN Framework Convention on Climate Change (UNFCCC). Before the COP, the President organized a meeting with representatives from civil society, academia, the private sector, and government. The aim of this meeting was to provide advice to the Brazilian delegation that would participate and negotiate at the COP.

Since its initial convening, the Forum has continued to meet and function. The Brazilian President presides over the Brazilian Forum, which also includes representatives from all the Ministries (especially those relating to the Environment, Foreign Affairs,

Public-Private Dialogues in Brazil (cont'd)

and Science and Technology), civil society, and other invited guests. The President nominates an Executive Secretary, which may be a member of the government or of civil society. The Forum envisions a number of Thematic Chambers (including energy, sustainable development, forests, etc.), which can be headed by representatives from either the government or civil society. During its first four years of existence, the most successful Thematic Chamber was the one related to the impacts of the climate change on Brazil's water resources, which was directed by the National Water Agency (Agência Nacional das Águas, or ANA).

The Brazilian Forum has supported a variety of climate change-related initiatives by the Government and civil society by building public awareness, improving participation, and promoting stakeholder dialogue. The FBMC has facilitated partnerships between the Government and universities, research institutions, NGOs, the business sector, and the media, among others. It follows up on negotiations, conducts awareness-raising and capacity-building activities (including the preparation of educational videos), convened technical meetings and public debates, and prepared various publications.

Created in 2005, the Paulista Forum on Global Climate Change and Biodiversity follows the general approach of the Brazilian Forum, but its innovations are to join the themes of climate change and biodiversity and to do so at the sub-national level. The Paulista Forum promotes synergies between the two themes, aggregating not only the UNFCCC and the Convention on Biological Diversity (CBD), but also all others MEAs related to these themes. These other agreements include, for example, the Ozone Agreement (Vienna Convention and Montreal Protocol), the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the Ramsar Convention, and the Inter-American Convention for the Protection and Conservation of Sea Turtles.

Besides the inclusion of a new theme, the Paulista Forum also has more specific objectives, including building capacity of civil society to follow the COPs relating to both themes - Climate Changes and Biodiversity. It also seeks to build the capacity of the private sector to undertake projects that make use of the Clean Development Mechanism (CDM), and the capacity of the Government to elaborate state policies on climate change and biodiversity.

As its name suggests, the Paulista Forum focuses on the Brazilian State of São Paulo. This State is one of the most important States in Brazil's economy, being responsible for about 40% of the Gross Domestic Product (GDP). Moreover, this State is heavily industrial, hosting a significant portion of the industrial activities that generate greenhouse gas emissions; and it has the highest number of circulating vehicles in the country. The territory of the State of São Paulo also includes one of the last significant Atlantic Forest areas, considered to be one of the five main hotspots in the world by the Conservation International. For all these reasons the creation of the Paulista Forum has significance not only for Brazil, but also in the global context.

The decree establishing the Brazilian forum is available at

<http://www.mct.gov.br/clima/ingles/brasil/d280800.htm>

For more information, see <http://www.forumclimabr.org.br> or contact Mr. Fabio Feldman fabio.feldmann@uol.com.br



Additional Resources on Coordinating with NGOs and the Private Sector

Focusing Partnerships: A Sourcebook for Municipal Capacity Building in Public-Private Partnerships, by Janelle Plummer et al. (Earthscan 2002).

Societal Learning and Change: How Governments, Business and Civil Society Are Creating Solutions to Complex Multi-Stakeholder Problems, by Steve Waddell (2005).

See also discussion and resources following Guidelines 41(i), 41(j), and 41(k) addressing access to justice, access to information, and public participation, respectively.

Coordination among Government Agencies and Other National Entities

- [42]** (c) *Coordination among the authorities responsible for promoting licensing systems to regulate and control the importation and exportation of illicit substances and hazardous materials, including regulated chemicals and wastes.*

Authorities responsible for licensing systems that govern import and export of regulated substances (such as hazardous waste and chemicals) have the ability to greatly reduce international environmental crime if they are properly supported and coordinated with. Although government cooperation in all sectors is important, cooperation in this area warrants particular emphasis, given its potential for halting the dangerous illegal transboundary movements of hazardous materials and the challenges regarding illegal movements of CITES-listed species.



[41(b)]

For additional information relating to import and export, see discussion accompanying Guideline 41(b).



H.M. REVENUE AND CUSTOMS OF THE UNITED KINGDOM

H.M. Revenue and Customs cooperates with other agencies in detecting the illegal transboundary movement of dangerous waste products and uses its unique position at ports and airports to identify illegal imports and exports of CITES-listed plants and animals, chlorofluorocarbons (CFCs) and other ozone depleting substances (ODS). To comply with the legal requirements set by each State under CITES, importers and exporters - whether they are tourists or business people - need to present the appropriate CITES permit or declaration to customs. In the United Kingdom those who violate CITES risk up to seven years' imprisonment and/or an unlimited fine. In 1997, the European Union imposed even stricter regulations on protected species, monitoring trade levels on some species which, at the time, were not even covered by CITES such as many species of seahorse. [Seahorses were added as CITES-listed species in 2002.]

H.M. Revenue and Customs has a network of specialist officers called Customs Wildlife



Revealing the contents of a CFC and HCFC seizure, including canisters labeled as CFC-12.

Ezra Clark/Environmental Investigation Agency

H.M. Revenue and Customs of the United Kingdom (cont'd)

and Endangered Species officers. It also has a specialist Customs CITES team, based at Heathrow Airport and believed to be the only one in Europe. They use sophisticated computer software to help them identify accurately the animals and plants they are dealing with and whether these are covered by CITES regulations.

For more information, see <http://www.hmrc.gov.uk/>



ENVIRONMENTAL TECHNICAL ASSISTANCE FOR ZAMBIAN CUSTOMS OFFICIALS

In 2003, the Environmental Council of Zambia (ECZ) has established a permanent office at one of the major border points (Chirundu). About 70 percent of Zambia's imports come through this border point. The ECZ officers there work hand in hand with the Customs officials, phytosanitary inspectors, health inspectors, pharmaceutical inspectors; and, through the technical environmental expertise of the ECZ officers, the Zambian Customs officials are able to identify and interdict the import or export of banned or severely restricted chemicals or waste [The ECZ officials at the border do not have the mandate for CITES, but they can work with relevant officers in case they come across such a case.]

In this manner, illegal import of such chemicals and waste are not allowed into the State, so the Government has been able to prevent many of the problems that would have arisen. Moreover, this approach has resulted in many companies complying with Zambian national chemical legislation.

For more information, contact dkapindula@necz.org.zm



PROVIDING ASSISTANCE TO THE CUSTOMS ADMINISTRATION IN LEBANON

As environmental protection has gained importance in Lebanon's legislative and institutional agendas, the State has adopted a number of laws, decrees, and ministerial decisions related to chemicals management. These legal instruments address the importation, production, and trade of the chemicals. Different Ministries are responsible for various chemicals. For example, the Ministry of Agriculture is responsible for agricultural chemicals, the Ministry of Environment is responsible for industrial chemicals, the Ministry of Public Health is responsible for pesticide chemicals used by consumers, and the Ministry of Energy and Water is responsible for petroleum-derived chemicals.

In the case of pesticides (e.g., under the Stockholm Convention, Law 432 of 29 July 2002) and other wastes containing hazardous material (e.g., under the Basel

Providing Assistance to the Customs Administration in Lebanon (cont'd)

Convention, Law 387 of 4 November 1994), monitoring is performed at the entry points by the Customs Administration. These entry points include border crossing on land, sea ports, and airports. The Customs Administration is responsible for ensuring that all goods entering and exiting Lebanon are in accordance with relevant laws and regulations. Accordingly, the Customs Administration is responsible for, among other things, of the “protection of the general welfare of Lebanon by enforcing import and export restrictions and prohibitions”.

Since the Customs Administration does not have specialised officers to enforce environmental legislation, the Ministry of Environment has undertaken to provide technical assistance. In particular, the Ministry has developed and periodically updated a list of specific items that are regulated or banned under national law (often pursuant to MEAs). These lists contain the specific names of banned materials, chemicals, and wastes and include their corresponding Harmonized System numbers. These lists provide a specific legal and technical basis for the Customs Administration to regulate (or, as appropriate, ban the entry of) the required materials, chemicals and wastes.

For more information, see <http://www.moe.gov.lb> or contact the Service of Prevention from Technological Impacts & Natural Disasters at j.berbari@moe.gov.lb



STRENGTHENING THE CAPACITY OF CUSTOMS OFFICERS AND INSPECTORS IN CAMEROON

Within the framework of implementing specific MEAs (including the Montreal Protocol, Basel Convention, and Cartagena Protocol), Cameroon’s Ministry of Environment and Nature Protection (MINEP) has organized a number of workshops to build the capacity of customs officers, phytosanitary inspectors, environmental inspectors and controllers, and other Government personnel. These workshops sought to build the capacity of Government personnel to identify environmental goods, regulate the legal trade, and seize illegal trade in ozone depleting substances, hazardous wastes, and genetically modified organisms. Sessions in the workshops addressed general background information and theoretical aspects, as well as practical lessons on detection and monitoring.

With respect to the Montreal Protocol, MINEP conducted training for customs officers and environmental inspectors. MINEP also distributed refrigerants to the key customs points around the country. Additional trainings have been conducted to ensure the enforcement of legislation controlling the importation of Ozone Depleting Substances (ODS). As of December 2005, a total of 250 customs officers were trained on ODS and learned how to use refrigerant identifiers. This training programme has yielded a sustainable foundation of personnel, as more than eight national trainers were identified to continue with training at national level.

Strengthening the Capacity of Customs Officers and Inspectors in Cameroon (cont'd)

These trainings have proven quite effective. They have enhanced collaboration between MINEP and the Department of Customs (which is in the Ministry of Economy and Finance). This joint effort has resulted in the seizures of illegal shipments of equipment and appliances using ODS and enabled Cameroon to meet its compliance obligations under the Montreal Protocol

*For more information, see <http://www.spm.gov.cm>
or contact Mr. Peter Enoh enohpeter@yahoo.fr*

Training of Enforcement Personnel and Related Authorities

[43]

Training activities for enhancing enforcement capabilities can comprise of:

- (a) Programmes to build awareness in enforcement agencies about their role and significance in enforcing environmental laws and regulations;*
- (b) Training for public prosecutors, magistrates, environmental enforcement personnel, customs officials and others pertaining to civil, criminal and administrative matters, including instruction in various forms of evidence, case development and prosecution, and guidance about imposition of appropriate penalties;*
- (c) Training for judges, magistrates and judicial auxiliaries regarding issues concerning the nature and enforcement of environmental laws and regulations, as well as environmental harm and costs posed by violations of such laws and regulations;*
- (d) Training that assists in creating common understanding among regulators, environmental enforcement personnel, prosecutors and judges, thereby enabling all components of the process to understand the role of each other;*
- (e) Training of environmental enforcement personnel including practical training on inspection techniques, advanced training in investigation techniques including surveillance, crime scene management and forensic analysis;*
- (f) Development of capabilities to coordinate action among agencies domestically and internationally, share data and strengthen capabilities to use information technology for promoting enforcement;*
- (g) Development of capabilities to design and use economic instruments effectively for enhancing compliance;*
- (h) Development of innovative means for securing, raising and maintaining human and financial resources to strengthen enforcement;*
- (i) Application of analytical intelligence techniques to grade and analyse data and provide information to assist in targeting resources on environmental criminals.*

Enforcement of national environmental laws and regulations implementing MEAs is a function that demands a high level of skill and awareness. The capability of each and every government official responsible for enforcement (or whose functions touch upon enforcement) is vital to ensuring that laws and regulations are fully implemented. Training of such officials is a continuing task, rather than a one-time endeavour, as environmental laws and policies are continually developing and personnel in the relevant fields continually change.

“Training” in this sense includes, among other activities:

- (1) awareness building,
- (2) job knowledge acquisition, and
- (3) skills improvement.

Some of the key players in the arena of national enforcement of environmental laws and regulations implementing MEAs who can benefit from training include:

- Enforcement agencies;
- Environmental enforcement personnel such as inspectors;
- Eustoms officials;
- Police;
- Public prosecutors;
- Magistrates;
- Judges; and
- Judicial auxiliaries.



FAO/19017/R. Faldutti

Training class.

Developing a programme for the practical training of each category or the integrated groups of officials might appear to be a daunting task, but such training can build upon existing capacity-building efforts and initiatives. Moreover, there are currently many workshops and training activities carried out at the international level by various institutions and governmental bodies that national-level officials can greatly benefit from. Training activities can include programmes on:

- Improving awareness in the enforcement agencies/personnel of their functions and role in enforcing environmental laws and regulations, knowing what their jobs entail, and how they each fit in as essential link in the vital chain of the environmental enforcement machinery;
- Instruction on various forms of evidence in support of a claim of violation of laws implementing MEAs, case development and prosecution, and guidance on imposition of appropriate penalties, for public prosecutors, magistrates, environmental enforcement personnel, custom officials, etc., in connection with civil, criminal and administrative matters;
- Issues dealing with the nature and enforcement of environmental laws and regulations, particularly assessment of compensation, costs and/or damages based on environmental harm arising from violations of the applicable laws and regulations, for judges, magistrates and judicial auxiliaries;
- Creating common understanding with the enforcement officials (that is, the regulators, environmental enforcement personnel, prosecutors, judges, etc.) to enable them understand one another's roles and responsibilities;
- Practical training on inspection techniques, advanced training in investigation

techniques including surveillance, crime scene management and forensic analysis for environmental enforcement personnel, e.g., inspectors, etc.;

- Development of capabilities to coordinate action among domestic and international agencies, share data and strengthen capabilities to use information technology to promote enforcement;
- Developing capabilities to design and use economic instruments effectively to enhance compliance;
- Developing innovative means for securing, raising and maintaining human and financial resources to strengthen enforcement; and
- Application of analytical intelligence techniques to grade and analyse data and provide pertinent information on targeting environmental criminals.

Training can strengthen the capacity of key individuals to implement MEAs. MEAs can also be “mainstreamed” into other training activities. Training for environmental practitioners can address the linkages between the environmental conservation goals (for example, as manifested in MEAs and national laws and policies) and the national priorities on economic development. Such training can strengthen their understanding of the broader policy and planning processes, thereby helping them to integrate MEAs into national social and economic development plans.

A number of national environmental statutes now provide specifically for training programmes to be provided through the environmental agency. For example, The Ghana Environmental Protection Agency Act No. 490 (1994) lists the “conduct of seminars and training” as part of the functions of the Environmental Agency. Where States do not have such specific provisions in the environmental statute, it is possible to attain the same training objectives through establishing and taking advantage of voluntary training programmes.

Special training could be undertaken through function-specific training that targets a particular category of officials (such as judges, inspectors or customs officials). Examples include CITES enforcement training workshops for customs officers, police, wildlife, and other law enforcement officers; Symposium on the Law of Sustainable Development and Key Environment Issues for Judges, etc.; and integrated training that brings together diverse environmental enforcement officials and is designed to train and develop basic skills in the variety of expertise areas, and to forge a basis for the development of the interdisciplinary skills essential to enforcement, building team spirit as well as a basis for mutual understanding and cooperation.

In some countries with economies in transition, national training institutes are established to provide an integrated training opportunity for inspectors, lawyers, and other staff at all levels of Government. Some developing countries, such as Zambia, are also carrying out similar programmes.

On capacity building generally, see Guideline 33 and accompanying text, especially the case study on the “Bali Strategic Plan for Technology Support and Capacity-building”; see also Guideline 44 (especially 44(c)) and accompanying text; and Guideline 49(d) and accompanying text.



[32]

[33]

[41(a)(v)]

[41(c)(vi)]

[41(i)]

[41(o)]

[44]

[44(c)]

[46]

[47]

[49(d)]

In addition to the case studies below, additional discussion and examples relating to judicial matters may be found following Guidelines 32, 41(a)(v), 41(c)(vi), 41(i), 41(o), 46, and 47.



JAMAICA'S TRAINING STRATEGY FOR COMPLIANCE AND ENFORCEMENT OF ENVIRONMENTAL AND PLANNING LAWS

Jamaica has numerous environmental and planning laws and regulations, including many that implement MEAs. A study into compliance and enforcement of these laws indicated that one of the challenges was limited knowledge and competence, particularly relating to enforcement. However, other than ad hoc training workshops, no training programme existed in Jamaica that targets officers for compliance and enforcement of environmental and planning legislation. With the support of the Environmental Action Programme (a joint venture project between the Government of Jamaica and the Canadian International Development Agency), The National Environmental and Planning Agency led a multi-agency participatory process to develop a training programme starting in 2002. A training strategy has been developed, based on a training needs analysis and a situation analysis.

Identified training needs include knowledge of the relevant laws; knowledge relating to the environment, sustainable development, and various planning issues; and enforcement procedures such as investigative techniques, statement taking and writing, court procedures, case preparation, communication skills, and negotiation skills.

The training strategy seeks to provide long-term (“output-based”) capacity building, rather than relying on short-term workshops. The training strategy is designed to develop learning products (including materials) that respond to agency needs, foster understanding of the different approaches to enforcement, facilitate networking among enforcement agencies and officials, strengthen the capacity of government Ministries and Agencies to identify and address enforcement issues, foster creative thinking to find proactive solutions to enforcement and compliance issues, and develop a pool of talent from which to select officers in the future.

The training strategy is expected to yield a programme on Compliance and Enforcement of Environmental and Planning Legislation that is appropriate for all levels of personnel in relevant agencies. This programme will be institutionalized within the Management Institute for National Development and selected education and training institutions.

The situation analysis revealed that some material for training in enforcement exists in Jamaica, but it is not adequate. Current courses in environment and sustainable development are not tailored specifically to enforcement officers. There are opportunities for institutionalizing such a course at some tertiary institutions, and Agencies have acknowledged the benefit of such training and are prepared to release staff to participate in the courses. Notably, trained and experienced trainers and facilitators are already available.

Jamaica's Training Strategy for Compliance and Enforcement of Environmental and Planning Laws (cont'd)

In 2004 and with additional support from USAID, five courses were developed for enforcement officers and their managers. These include:

- Introduction to Natural Resources, Environmental Legislation and Planning Legislation (EC 01) (a 60-hour course)
- Techniques and Procedures for Enforcement and Compliance (EC 02) (35 hours)
- Personal Competencies for Enforcement and Compliance A (EC 03A) (23 hours)
- Personal Competencies for Enforcement and Compliance B (EC 03B) (14 hours)
- Environmental and Planning Laws for Community Leaders (EC 04) (18 hours)

Resource materials for these courses include a participant's handbook, a participant's workbook, and a facilitators' guide.

In addition to lectures, modes of programme delivery include court visits, case studies, and site visits. Training began in April of 2004. While the current training is funded by donors, Jamaica expects the programme to be institutionalised locally and eventually paid for by government institutions.

For more information, contact Novlette Douglas at NDouglas@nepa.gov.jm



UGANDA'S CASEBOOK AND HANDBOOK ON ENVIRONMENTAL LAW

The Casebook on Environmental Law in Uganda is a result of efforts to develop and enhance the legal and institutional framework for the management of environment in Uganda (see case study on "Capacity Building for Judicial Officers and Practitioners in Uganda," following Guideline 41(a)(v)). The Casebook is a compilation of judicial decisions in environmental cases from Uganda and other jurisdictions. It was compiled as part of the training materials for capacity building programmes in environmental law that were sponsored by UNEP's Partnership for the Development of Environmental Law and Institutions in Africa (PADELIA) and other institutions.

The Casebook compiles court cases relating to various environmental topics, including: locus standi, polluter pays principle, public trust doctrine, and precautionary principle, among others. The causes of action arise from Constitutional provisions and legislation. This Casebook is meant to aid legal practitioners and judicial officers who are or may be involved in aspects of environmental law. It is also intended as a resource material on the conceptual framework utilised in interpreting environmental law. It is also meant to ease the work of academicians, practitioners, and judicial officers in finding judicial precedents on environmental law.

Uganda's Casebook and Handbook on Environmental Law (cont'd)

The Handbook on Environmental Law in Uganda guides practitioners in the theoretical and practical aspects of environmental law. The Handbook includes two basic sections: a concise summary of the principles and norms known globally, and the evolution and current practice of environmental law in Uganda. The first section of the Handbook examines the evolution of environmental law globally from religious, cultural, and historical perspectives. It also describes international legal protection of segments of the environment from a global perspective, narrating the international principles guiding the development of legal frameworks for environmental management. This illustrates the key principles that guided the development of Uganda's environmental laws. The Handbook also highlights instances where Uganda's Constitutional law has enabled the practice of environmental law.

The second section of the Handbook traces the evolution of environmental policy and law in Uganda, starting in 1985. It considers the role that the general socio-economic transformation – including reform of the major economic sectors and decentralisation – have had on the development of environmental law and policy in Uganda. The Handbook also examines the development and practice of public interest litigation and prosecution of environmental crimes in Uganda. The discussion of public interest environmental litigation highlights the central role that it has played in advancing and shaping the development and implementation of environmental law in Uganda. The Handbook concludes by analyzing Uganda's approach to access to environmental information as a tool to environmental governance.

For more information, contact Ms. Christine Akello at cakello@nemaug.org or info@nemaug.org



USEPA's NATIONAL ENFORCEMENT TRAINING INSTITUTE

The National Enforcement Training Institute (NETI) of the U.S. Environmental Protection Agency (USEPA) provides training for national, sub-national (state, county, and local government), and tribal enforcement personnel, including attorneys, inspectors, technical staff, investigators and police. NETI offers literally dozens of classes on a wide range of topics that involve assuring compliance with pollution-control requirements. Courses are provided in classrooms and by alternative methods such as video, CD-ROM, or Internet. Most courses are from one to five days in length, although certain courses may last for months.

English-speaking officials of foreign environmental enforcement agencies are welcome to participate without charge for tuition or course materials. (However, this training is very USEPA-specific, and officials from outside the United States may want to refer to text accompanying Guideline 49(d) below for information on USEPA's enforcement capacity building and training designed for international audiences.)

The schedule of NETI courses may be reviewed at <http://www.netionline.com> where one also may register for any course.



[49(d)]

Role of UNEP in Building Judicial Capacity

As described in the case study on “UNEP’s Judges Programme” following Guideline 41(a)(v), UNEP has undertaken numerous activities to assist States in strengthen the capacity of judiciaries to hear and decide environmental cases. These include, inter alia, UNEP’s global programme for enhancing judicial capacity and the PADELIA Compendia of judicial environmental decisions.

←
41(a)(v)

Role of NGOs in Building Judicial Capacity

Since 1991, the Judicial Education Programme at the Environmental Law Institute (ELI) has developed, presented, and participated in educational workshops on environmental law for judges from fifteen U.S. states and eleven States. ELI’s training has reached hundreds of state and federal judges in the United States and hundreds more in other States. In developing its courses, ELI works closely with the judiciary and other local partners to develop educational programmes and materials that meet the specific needs of a particular jurisdiction.



Photo by John Pendergrass

For more information, see <http://www.eli.org> or contact Mr. Jay Pendergrass at pendergrass@eli.org

Other international NGOs involved in judicial training include (but are not limited to):

- the Africa Law Institute
- the Foundation for International Environmental Law and Development (FIELD)
- IUCN – The World Conservation Union
- the World Wide Fund for Nature (WWF)

Contact information for these institutions can be found in Annex V of this Manual.

Many national and regional NGOs also are involved in training judges. In many cases, these institutions are best positioned to know the needs of the judiciary and have existing relationships that facilitate the development and delivery of judicial education programmes. For example, with funding from the Indonesian and Australian Governments, the Indonesian Centre for Environmental Law (ICEL) has developed an ongoing training programme in environmental law and enforcement. Through this program, ICEL has trained more than 700 judges as well as 500 prosecutors and police officers.

For more information, see <http://www.icel.or.id/>

Degree and Certificate Courses to Assist in Implementing MEAs

Short, ad hoc training courses can be useful for raising awareness and building a specific set of skills. Longer courses can be particularly helpful in building lasting capacity. In addition, longer courses provide people with a longer period of time to network with other participants in the course, as illustrated in the CITES Master's Degree case study, below.



CITES MASTER'S DEGREE

The International University of Andalusia, known by its Spanish acronym UIA, has developed a Master's Degree in Management, Conservation, and Control of Species in International Trade. The degree is organised in collaboration with the University of Córdoba, and the course of study has been held five times so far at the UIA in Baeza, Jaen (Spain).

Participants attend 400 hours of lectures and practical training. Practical training takes place in different organisations in Spain (such as the Barcelona Zoo, Cordoba Botanical Garden, and Barajas Customs Office). To obtain the Master's Degree, participants must pass all the course modules and the final exam as well as preparing a thesis on a specific CITES topic. The thesis is assessed and graded by a special academic commission at IUA. The first two Master's courses were conducted entirely in Spanish, so only Spanish-speaking students attended. The last three courses were given in both Spanish and English, and the students came from around the world, particularly from developing countries, and included many people who are responsible for implementing CITES in their own countries. There are approximately 60 lecturers who come from different countries and organisations, and they have expertise in different aspects of CITES, such as the Convention Secretariat, CITES management and scientific authorities, enforcement bodies, NGOs, international organisations, and public relation services.

This course of study provides solid training for implementing CITES. It also provides a forum for people on CITES issues to develop personal contacts with colleagues from other countries as well as with key CITES experts and officials. This has the practical effect of facilitating communication, collaboration, and coordination among States and different organisations involved in implementing and enforcing CITES.

In 2006, the UIA and University of Córdoba expanded their post-graduate offerings to include a Doctorate Degree in "Management, Access and Conservation of Biodiversity: The International Framework" and a Master's Degree in "Management, Access, Conservation, and Control of Species: The International Framework." These courses examine the workings of related MEAs, including the Convention on Biological Diversity (CBD), Cartagena Protocol, and CITES.

For more information, contact Prof. Dr. Margarita África Clemente Munoz at cr1clmum@uco.es or IUA at machado@uniaam.uia.es



CERTIFICATE COURSE IN CLIMATE CHANGE VULNERABILITY AND ADAPTATION ASSESSMENT

The University of the South Pacific (USP) offers a Certificate in Climate Change Vulnerability and Adaptation Assessment. This training programme focuses on options for Small Island Developing States (SIDS). The course is a 16-week, full-time program and has been offered since 1999.

For more information, see <http://www.usp.ac.fj/pace> or contact Dr. Kanayathu Koshy koshy_k@usp.ac.fj or startoceana@usp.ac.fj

Cross-Training

Many of the capacity building courses and initiatives outlined above focus on helping enforcement officials to do their job better. Due to limited staff, some States cross-train so that staff can fulfil more than one function. For example, in Zambia, the Environmental Council of Zambia has trained environmental inspectors on prepare for and conduct prosecutions for environmental violations.



CROSS-TRAINING ENVIRONMENTAL INSPECTORS TO BE PROSECUTORS IN ZAMBIA

The Environmental Council of Zambia (ECZ), a statutory body in Zambia, has conducted two courses for environmental inspectors in legal aspects of prosecuting environmental violations. Initially, it trained eleven inspectors in 2000; and in 2003, it trained fifteen more inspectors. Topics included environmental law, criminal procedures, evidence that should be adduced in an environmental case (for example, to prove that a river was polluted). Other components of the training include taking samples upstream and downstream, testing of samples by third parties, visual inspection for damage, establishing chain of custody, and utilising methods of analysis established under the Zambia Bureau of Standards. This training enables the officers to go to court and prosecute environmental violations.

*For more information on the training, contact ECZ at ecz@necz.org.zm
For specific issues concerning standards, pollution parameters, and methods of analysis contact the Zambia Bureau of Standards at zabs@zamnet.zm*

Short Courses to Assist Implementation of MEAs

Short courses can provide opportunities for targeted training. Typically lasting between one and five days, these courses are popular because it is possible to train government staff and other professionals who might not otherwise be able to leave the office for two or three weeks, let alone months or years that may be necessary for a degree program.

The short courses may be once-off trainings, part of a series of related courses, or part of a permanent training program. In many instances, external funding (e.g., from donors) is necessary. In some circumstances, it is possible to have the courses funded by the participants. For example, in the United States, most states require lawyers who are practicing in their jurisdiction to take regular courses on Continuing Legal Education (CLE). In particular they must take a certain number of hours every year to stay in good standing with the bar. These courses may be on any topic (tax law, environmental law, real estate, ethics, etc.), and the particular lawyer is free to choose which courses they want to take. In most instances, though, there is a fee for the lawyers to take the course. This requirement seeks to ensure that practicing lawyers know the recent legal developments (new laws, regulations, relevant court decisions, etc.). It is possible for such an approach to be adopted also for other professions requiring certification (e.g., individuals who are certified to conduct environmental impact assessments).

Short courses may address general issues, or they may be more focused. For example, the U.S. Environmental Protection Agency (EPA) developed a course on the “Principles of Environmental Enforcement”. The EPA has delivered this course at the national, regional, and global levels numerous times over the past decade.

For more information, see <http://www.inece.org/enforcementprinciples.html> or contact Director, International Compliance Assurance Division, USEPA (2254A), 1200 Pennsylvania Ave. NW, Washington, DC 20460, USA [telephone: +1-202-564-4108].

UNITAR offers a summer course on international and comparative environmental law, which is aimed at public officials from environmental authorities around the world.

For more information, see <http://www.unitar.org/elp/fellowship.htm>

More targeted courses often focus on particular agreements or aspects of those agreements. Examples of these follow.

Fighting “Brain Drain” while Building Capacity

One of the challenges in building capacity can be that once a person receives the training to be able to do a job that they leave for more profitable opportunities. This may happen, for example, if a person leaves a Government post to become a consultant in the private sector, or if the person leaves the State to work for an international organisation or in a developed country. This referred to as “brain drain.” A challenge, then, for many institutions and Governments is how best to build its long-term human capacity with the limited resources and training opportunities at its disposal.



CAPACITY BUILDING UNDER THE LUSAKA AGREEMENT



The 1994 Lusaka Agreement on Cooperative Enforcement Operations Directed at Illegal Trade in Wild Fauna and Flora is a regional agreement to combat the problem of illegal trade in wild species. The Parties to the agreement are Tanzania, Uganda, Kenya, Zambia, Lesotho, and the Republic of Congo. Ethiopia, Swaziland, and the Republic of South Africa are also signatories.

UNEP has helped to enhance the technical capacities of national law enforcement officers to implement the Lusaka Agreement and support the activities of the agreement's task force. National law enforcement officers from wildlife, forestry, customs, and police departments have been given two weeks comprehensive training on cooperative enforcement mechanisms, which included theory, practical training in the field and simulation exercises. Fifteen participants from each State have participated in national level training courses. Approximately 105 personnel were trained between 1996 and 2000.

As a result of this training, law enforcement officers have formed a core group of technical experts in National Bureaus to facilitate the implementation of the Lusaka Agreement. They are also training other law enforcement officers to expand the base and the number of experts in each State. One trained field officer from each State has been seconded to the Lusaka Agreement Task Force headquarters in Kenya in accordance with the Lusaka Agreement. The training courses have ensured that both the National Bureaus and the Lusaka Agreement Task Force, launched in June 1999, have officers with the necessary expertise to exchange required information for enforcement.

For more information, contact

Mr. Emily S. Kisamo at Skisamo@lusakaagreement.org



THE CUSTOMS TECHNICAL ASSISTANCE PROJECT IN THE PHILIPPINES

The Customs Technical Assistance Project was implemented jointly by the Philippine Ozone Desk (POD) of the Department of Environment and Natural Resources (DENR)-Environmental Management Bureau (EMB) and the Bureau of Customs (BoC) and was funded under the Multilateral Fund.

In 2002, the BoC and the DENR agreed to take specific measures to implement the Montreal Protocol, specifically focusing on preventing the entry of harmful chemicals, such as Ozone-Depleting Substances (ODS), into the country. A Memorandum of Understanding (MOU) between the DENR and the BoC was signed by the heads of both agencies on 24 July 2003 to clarify the roles and responsibilities of the BoC and the DENR-EMB in relation to the provisions of Republic Act No.6969 (Toxic and Hazardous Substances Management Act) and the Montreal Protocol. The partnership led to the creation of the DENR-BoC Liaison Committee to ensure adequate coordination and problem-solving between the two agencies.

The project "Training for Customs Officers and other Key Stakeholders on Monitoring and Control of Ozone Depleting Substances and Compliance under other Multilateral Environmental Agreements" was approved by the Executive Committee of the Multilateral Fund in March 2002. It sought to provide the necessary training of customs officials and other key stakeholders on monitoring, strict control of importation, and preventing the illegal trade of all ODS. The training also raised the awareness and capacity of customs officials in the enforcement of other MEAs with trade provisions, such as the Stockholm Convention on Persistent Organic Pollutants (POPs), the Rotterdam Convention on the Prior Informed Consent (PIC) Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, the Convention on the International Trade of Endangered Species (CITES), and the Basel Convention on the Transboundary Movement of Hazardous Wastes.

The project had two phases. Phase I, the Train-the-Trainers Phase, involved the training of Customs Officers, some DENR-EMB Regional ODS Officers, and participants from other partner agencies such as the Tariff Commission, Philippine Ports Authority, Fertilizer and Pesticide Authority, Technical Education and Skills Development Authority, and Department of Trade and Industry. About 36 participants successfully completed the training and eventually became trainers and resource persons in the Phase II of the project.

In Phase II, other customs officers from the different ports in the country, key stakeholders such as ODS importers, DENR-EMB-ODS Officers, and other government agencies were trained. A total of 332 Customs Officers and other stakeholders were trained. In this phase, a Country Handbook on National Regulations and Import Licensing System for the Phase-Out of Ozone Depleting Substances was published as a reference to assist customs officers in better understanding the policy, legislative, and regulatory framework for the Philippines' compliance with the Montreal Protocol.

The Customs Technical Assistance Project in the Philippines (cont'd)

The Project was completed in April 2004. Efforts are now underway to sustain this capacity building initiative at the BoC by including an ODS Training Curricula in the BoC-Human Resources Management Division (HRMD) Training Work Program.

For more information, contact Ms. Consolacion Crisostomo at consolacioncrisostomo@yahoo.com



ENFORCEMENT TRAINING WORKSHOPS IN TAIWAN, PROVINCE OF CHINA

Taiwan, Province of China plays an important part in the global trade in plants. According to international trade data for the period 1992 to 1997, Taiwan ranked fifth in overall imports of medicinal and aromatic plants after the Hong Kong Special Administrative Region of China, Japan, USA, and Germany. Taiwan is also an important exporter of plants such as artificially propagated orchids, with export volumes rivaling those of Thailand, the world's leading orchid exporter.

In order to strengthen awareness of plant conservation and trade issues among the relevant government agencies, TRAFFIC East Asia-Taipei, a non-governmental organization, hosted a three-day CITES Enforcement Training Workshop on plants in September 2000. Taiwan's Council of Agriculture (COA) sponsored the event. More than fifty delegates from various government authorities participated, including delegates from the board of Foreign Trade, Customs, the Quarantine Bureau, COA, and plant research institutes. Trainers included experts from Taiwan as well as their colleagues from UK Customs, the Royal Botanic Gardens in Kew, UK, and TRAFFIC International.

The workshop, which was the fifth in a series of international CITES workshops held in Taiwan since 1995, focused on licensing and trade controls for plants, plant specimen identification, trade trends and countering illegal trade. Providing useful tools to front-line enforcement staff was a principal objective of the workshop. In addition to lectures, the workshop also included practical exercises for participants to test their skills and to reinforce the knowledge provided in the lecture setting.



BUILDING CAPACITY TO PROSECUTE ENVIRONMENTAL CASES IN GHANA

Ghana's Environmental Protection Agency lost many of the first environmental cases that it took to court. One of the reasons was the difficulty in sustaining charges: they did not have the necessary evidence for an effective prosecution. Some of this was due to the lack of experience of Agency staff, who had strong academic qualifications but had not been trained in evidence gathering and investigation. Also, a lack of awareness by the judiciary of environmental laws made things more difficult.

To address these needs, the Agency is developing guidelines for investigation and prosecution of environmental violations. The guidelines are designed for use by Agency staff, and include guidance on what to look for, how to collect evidence, establishing chain of custody, presentation of evidence, and other aspects of investigation and prosecution. The Agency also has developed, in collaboration with the judiciary, a training syllabus for the judiciary on environmental laws and the need to comply with MEAs. These are incorporated into Ghana's continuous Judicial Education Programme.

Teaching Environmental Law at the Police Academy in Ghana

In Ghana, the Environmental Protection Agency has concluded an agreement with the Police Administration to introduce environmental management and environmental law to police recruits and cadet officers. Specific topics include: environmental concepts, the structure and organization of Ghana's EPA, environmental law (including the history of environmental law, legislative provisions, and regulations), and the role of compliance and enforcement in environmental management. The courses will be taught by EPA officers. The programme is still being developed, and it is expected that the programme soon will be extended to more senior officers.

For more information, see <http://www.epaghana.org> or contact epaed@epaghana.org



ZAMBIAN PROSECUTORS TRAINED IN ENVIRONMENTAL POLICY AND LEGISLATION

In Zambia, efforts have been undertaken to train officers in environmental policy and legislation in order to ensure that the country's environmental regulations and policy are adhered to and that abusers of natural resources are prosecuted. With support from the Ministry of the Zambia Institute of Advanced Legal Education, forty officials recently graduated from a course of intensive training in this area. The graduates were drawn from the Forestry Department, Zambia Wildlife Authority, the Fisheries Department, Zambia Police, the Ministry of Mines and Mineral's Development and

Zambian Prosecutors Trained in Environmental Policy and Legislation (cont'd)

pilot districts selected for testing the effectiveness of the Environmental Support programme. Also trained were officers from the Environmental Council of Zambia, the Drug Enforcement Commission and the Energy Regulations Board, which oversees operations of power generating plants.

During their course, the graduates learned such things as environmental law, investigation of environmental crimes and prosecution of environmental offenders. The training is part of the Zambian Government's programme of managing natural resources and protecting them with the active participation of local communities. A multi-donor funded project that has drawn funding from the International Development Agency (IDA), the Nordic Fund, the UN Development Programme and counterpart funding from the Zambian Government – the Environment Support Program – aims at strengthening various capabilities in the nation.

The legal component of this programme seeks to harmonise environmental statutes and regulations while it strengthens institutional capacity. It would also raise awareness of the community and seek the participation of ordinary citizens in the enforcement of environmental laws. (Source: Lewis Mwanangombe).



CAPACITY DEVELOPMENT TO IMPLEMENT THE OZONE MEAs IN GEORGIA

Georgia acceded to the Vienna Convention and Montreal Protocol in 1996. In addition to legislative and regulatory development, Georgia has invested heavily in building capacity to implement the MEAs. Capacity building targeted three sectors: customs officers, the private sector, and the public at large.

Customs Officers. To develop an effective system for monitoring and controlling the import of Ozone Depleting Substances (ODS), the Ministry of Environment of Georgia organized a National Train-the-Trainers Workshop for Customs Officers on Monitoring and Control of ODS. This workshop was held in Tbilisi in 2003. The remaining customs and enforcement officers in the country are being trained by the trained customs trainers who participated in the first phase of the training. About 200 experts are expected to be trained during the second phase. In 2003 and 2004, two workshops were organized using the trained customs officers as faculty. The Customs Academy of Georgia is expected to incorporate a training module on the Montreal Protocol and control and monitoring of ODS.

In addition to human capacity development, Georgia has sought to improve the technical resources of customs officers. Toward that end, Georgia obtained ODS identification equipment from UNEP for distribution at the main customs entry points.

Private Sector. Georgia has built the capacity of the private sector to implement the

Capacity Development to Implement the Ozone MEAs in Georgia (cont'd)

Ozone MEAs. It established two ODS recovery and recycling centers. Two training workshops were held in 1999 on recovery and recycling of ODS in the refrigeration service sector. Following the training, the National Ozone Unit (NOU) distributed 60 sets of recovery equipment to selected refrigeration technicians. In 2000, Georgia organized a Train the Trainers workshop on good practices in refrigeration. In 2001-2002, 30 workshops were held for 300 technicians in 4 cities. In addition, a training programme in the refrigeration sector has been approved for the remaining technicians (approximately 200), and the project is expected to start in 2004 with support from the Multilateral Fund.

The Government has also supported and encourages local industries to adopt ODS-free technologies. It is implementing (with support from UNDP) an incentive programme for end-users in the commercial and industrial refrigeration and refrigeration transport sub-sector. The Government also has a UNIDO-funded project to phase out methyl bromide in the soil fumigation sector, and demonstration projects are being conducted in the main greenhouse tomato producing areas in Georgia.

Public awareness. Georgia has used a wide range of approaches to build public awareness to promote the country's strategy for an accelerated phase-out of ODS.

These include:

- Awareness-raising in children's summer schools (2000);
- Children's pictures exhibition (2001);
- Animated film "Magnificent sky" (prepared based on children's drawings). The film won prizes at several international festivals for environmental films (1999);
- Articles in the newspapers and magazines (1998-2003);
- Developing and playing advertisements, animated films, and shows for adults and children on television (2001-2003);
- Two large advertisement boards were placed in the capital of Georgia (2002);
- 5000 copies of a poster, developed by the NOU, were disseminated as a supplementary sheet to the popular Georgian newsletter in 2003;
- The national workshop on ODS Phase-Out Activities in Georgia (2002);
- Translation of the Handbook for the International Treaties for the Protection of the Ozone Layer. The first edition was published in 2000, the second in 2003;
- Translation, layout, printing, and dissemination by the NOU of the first and second Russian language versions of the OzonAction Newsletter in August and November of 2003. 2000 copies were printed and disseminated among Russian speaking countries operating under Article 5 of the Montreal Protocol and members of the Regional Network of Central and Eastern Europe/Central Asia as well as among non-Article 5 Russian speaking Countries with Economies in Transition.

For more information, contact gmep@access.sanet.ge



RESOURCES FOR TRAINING TO IMPLEMENT THE OZONE CONVENTIONS

The OzonAction Programme of UNEP's Division of Technology, Industries and Economics (DTIE) has conducted extensive training of customs officers, policymakers, industry and agricultural workers, and other stakeholders to build capacity to implement and enforce the Ozone Conventions. National and regional experts are particularly important in delivering these courses.



To facilitate use of the various training materials that it has developed, OzonAction has developed an on-line library with training materials available for free. The materials include posters, training manuals, guidebooks, guidelines, and resource modules, as well as workshop reports that can help to identify lessons learned in training various sectors.

For more information,

see <http://www.unep.fr/ozonaction/library/mmc/list.asp?x=t>

or contact ozonaction@unep.fr



THE NATIONAL FOREST POLICY AND ADVOCACY PROJECT IN SIERRA LEONE

Sierra Leone's National Policy on the Environment (1995) and the Environment Protection Act (2000) provide a blueprint for sustainable development in the country based on proper environmental management, with a particular emphasis on forests. However, there had been little implementation of forest policies at the grassroots level, and efforts have not been well-coordinated. It was in this context that a national forest policy and advocacy project in Sierra Leone was initiated.

The National Forest Policy and Advocacy Project in Sierra Leone

The project conducted a critical assessment of government forest policies and legislation. It sought to develop and promote new legislative, regulatory, and institutional approaches that would be able to adequately address forest degradation in both protected and non-protected areas. The project was managed by two committees: a Task Force Committee and a National Forest Policy and Advocacy Committee. The Task Force Committee consisted of four members drawn from two governmental agencies (Forestry and Environment Division), an NGO (Conservation Society of Sierra Leone), and the University of Sierra Leone, and it had the responsibility for implementing the projects. The National Forest Policy and

The National Forest Policy and Advocacy Project in Sierra Leone (cont'd)

Advocacy Committee consisted of 30 members from government agencies, local NGOs, international NGOs, civil society, and the University of Sierra Leone, and it was responsible for project supervision.

One of the key activities of this project was to advocate for inclusion of forest and wildlife laws into the training programmes of law enforcing bodies. Two training programmes have now been conducted for the Sierra Leone Police Force on various topics, including environmental degradation laws, regulations, policies, and international conventions (including CITES). The training targeted recruits in the training school and senior police officers from various regions in the country.

For more information, contact cssl@sierratel.sl



UNITAR DISTANCE LEARNING COURSE IN INTERNATIONAL ENVIRONMENTAL LAW

The United Nations Institute for Training and Research (UNITAR) carries out a wide range of training courses on environmental law. These include national and regional workshops for governmental officials and professionals, as well as seminars for magistrates.

UNITAR's Distance Learning Course on International Environmental Law is designed to reach a large number of people working for Governments and NGOs, as well as professionals and students from the academic and research institutions in States throughout the world. Special attention is given to developing countries and countries with economies in transition. The topics cover the basics of international environmental law, including:

- Introduction to International Environmental Law
- The Role of International Organizations in the Evolution of Environmental Law
- Techniques and Procedures in International Environmental Law
- International Environmental Negotiations
- International Environmental Law: Hazardous Materials and Waste
- International Environmental Law: Biological Diversity
- International Environmental Law: Atmosphere, Freshwater and Soil
- International Environmental Law: Marine Environment, Polar Regions and Outer Space
- Environment and Trade
- Developments and Trends in International Environmental Law

The distance learning course consists of a series of 10 course books on these topics. The authors of the course books are international experts and serve as faculty for the training course. The course is available in English, French, and Spanish (e-version). A number of universities in Africa, South America, and Europe recognise the quality of education of these distance learning courses by granting college credits for completing the course.

UNITAR is exploring options for placing these training materials on the Internet.

For more information, see http://www.unitar.org/elp/Programme_eng.htm



ROMANIAN LEGAL PROVISIONS ON TRAINING FOR PUBLIC SERVANTS

Romania has a specific law regarding the rights and obligations of public servants – Law 188/1999 which is the Public Servants Statute. This law includes various provisions relating to, among other matters, training for public servants. For example, public institutions (ministries, governmental agencies, city halls, etc.) are obliged to include monies in their budgets to pay for courses and other training opportunities for public servants. In addition, public servants must attend a minimum of 7 days of courses every year. These courses are organised by the National Agency of Public Servants.

If the duration of the training received (either in Romania or abroad) is more than 90 days and a national or local public institution pays for the training, the public servant must sign an agreement with the institution that is paying for this training. Under this agreement, the public servant is obliged to work for public administration for at least 5 more years. If they leave the public system before their 5-year commitment has concluded, the public servant must return the money paid by the institution for the training. Also, if the public servant has not finished the training because of the public servant's fault, he or she must return the money. This financial obligation does not apply to short courses or workshops. Instead, it focuses on the more significant investments in human capital a Government may make (for instance paying for staff to obtain a Master's Degree). The Statute seeks to promote capacity development of its staff while also ensuring that the Government is able to benefit from these investments.

For more information, see <http://www.anfp-map.ro/> (including contact information).



Additional Resources on Training

Donna G. Craig et al., *Capacity Building for Environmental Law in the Asian and Pacific Region: Approaches and Resources* (Asian Development Bank 2002) (two volumes).

LEAD, *Training Across Cultures* (LEAD 2004) (providing insight into how international trainers can better work with national groups, including tips for working with mixed international groups, understanding cultural identity, gender issues, building trust, anticipating and meeting diverse expectations, techniques that can be helpful with participants, logistical surprises, and food and leisure time).

LEAD, *Organizing Effective International Training Events: The Lead Approach* (LEAD 2003) (providing a step-by-step reference guide to designing, implementing, and evaluating international training events and workshops).

UN Development Group Working Group on Capacity Development:
<http://www.undg.org/content.cfm?id=1367>

UNEP Division of Environmental Conventions (inc. group on Capacity Building): <http://www.unep.org/depil/>

Public Environmental Awareness and Education

[44]

Public environmental awareness and education can be increased by the following actions:

- (a) Generating public awareness and environmental education, particularly among targeted groups, about relevant laws and regulations and about their rights, interests, duties and responsibilities, as well as about the social, environmental and economic consequences of non-compliance;*
- (b) Promoting responsible action in the community through the media by involving key public players, decision-makers and opinion-builders in such campaigns;*
- (c) Organizing campaigns for fostering environmental awareness among communities, non-governmental organizations, the private sector and industrial and trade associations;*
- (d) Inclusion of awareness and environmental educational programmes in schools and other educational establishments as part of education;*
- (e) Organizing campaigns for fostering environmental awareness and environmental educational programmes for women and youth;*
- (f) Organizing campaigns for encouraging public involvement in monitoring of compliance.*

Action can be taken in a variety of areas to increase environmental awareness and education. Some of these categories are: environmental legal rights and responsibilities and associated consequences, use of the media, awareness raising campaigns, incorporation of environmental issues in mainstream education, increasing awareness and education in target groups and encouragement of public participation in environmental matters.

As the following case studies illustrate, many sectors of society are involved in developing and delivering educational courses and public awareness campaigns. These include Governmental institutions at the national, regional, and local levels; domestic and international NGOs; primary, secondary, and post-secondary schools; journalists and the media; celebrities; and other individuals and institutions.

Moreover, educational and awareness efforts can target practically any sector of society. They can seek to raise public awareness broadly on environmental issues (e.g., through the media) or they may be a targeted campaign or educational effort focused on a specific sector (or target audience) on a specific issue.

Funding for awareness and education initiatives may come from a variety of sources. Often, it comes from the budgets of specific agencies or Ministries; it is uncommon for such initiatives to receive funding directly from the central budget. Some States have accessed their national Environment Funds to provide partial funding for environmental awareness and education. [See Guideline 41(g) for a discussion of Environment Funds.]


[41(g)]

Environmental education and awareness raising can include any of the following types of activities:

- Reorienting current education and awareness programs to include environmental dimensions;
- Basic education and awareness programmes (e.g., in schools);
- Adult and community education and awareness programmes; and
- Education, training, and awareness programmes for professional, technical, and vocational personnel.

Accordingly, in addition to the case studies, explanatory text, and other reference materials following this Guideline, other relevant material may be found following Guidelines 30, 31, 34(a) (especially the case study on “NGOs Providing News Relating to MEA Implementation”), 41(a)(iv), and 41(m). Guideline 43, on training, may also be consulted.



[30]

[31]

[34(a)]

[41(a)(iv)]

[41(m)]

[43]



UN DECADE OF EDUCATION FOR SUSTAINABLE DEVELOPMENT

In 2002, the UN General Assembly declared that 2005-2014 would be the “Decade of Education for Sustainable Development” (UNDESD). UNGA Resolution 57/254, proclaiming the Decade, recognized the central role of education for the achievement of sustainable development as highlighted by several international instruments and documents including the recommendations from the 1992 Earth Summit in Rio de Janeiro and the 2002 World Summit on Sustainable Development (WSSD) in Johannesburg.

Following the launch of the United Nations Decade of Education for Sustainable Development in March 2005, UNEP has made significant milestones in its role as the lead agency on environmental matters. Through collaborative efforts with the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the formulation of the Environmental Education and Training (EET) Strategy for the Decade, UNEP is currently taking the center-stage in developing programmes and projects to fulfil the objectives of the Decade.

In order to implement the Decade activities more effectively, UNEP increasingly relies on its regional offices. Experience has demonstrated the benefits of working at the regional level, where immediate neighbours can more easily collaborate, often through existing regional institutions. UNEP’s activities for the Decade are visible at the

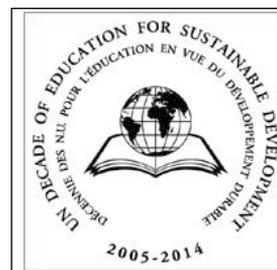
UN Decade of Education for Sustainable Development (cont'd)

regional level through many programmes, networks, and resources that are administered and coordinated by Regional Environmental Education and Training Focal Points.

In addition to UNESCO and UNEP, many other international and national institutions are undertaking activities to promote sustainable development education. To promote awareness and activities pertaining to the UN Decade of Education for Sustainable Development, the UN has adopted the following logo:

For more information, see

<http://www.unesco.org/education/desd> or contact esddecade@unesco.org or env.edu@unep.org



Working with the Media

The print, broadcast, and Internet media can be a powerful ally in educating the public on environmental matters. In order to perform this role effectively, it is often necessary for the Government to work with the media (and sometimes educate the media). This is often done informally, through regular briefings and information centres.

Some States have found that educating the media can be quite effective in building capacity to report on environmental matters. The case study from Bulgaria, below, is but one example of how the Government has worked closely with the mass media to build its environmental reporting capacity through regular press conferences and large public awareness campaigns.

Capacity building efforts can provide journalists with basic environmental information on a specific topic or general environmental information. Information centres that are accessible to the media and to the public constitute one approach. These centres may be run by a governmental agency or Ministry (e.g., in Bulgaria, Croatia, and Macedonia) or by an NGO (e.g., in Romania). An information centre may disseminate recent information (such as press releases), have a public library with a range of environmental resources, and actively disseminate information.

In addition, journalists can build capacity of their peers through networking, as described in the CERN case study below.



CAPACITY BUILDING FOR JOURNALISTS IN BULGARIA

The Government of the Republic of Bulgaria has committed to building capacity of journalists to report on environmental matters. In accordance with its Communication Strategy, the Ministry of Environment and Water (MOEW) organizes regular seminars for journalists from the different mass-media outlets. These are held at least twice a year, but may be more often if needed. At these seminars, high-level experts from the Ministry explain recent developments and answer journalists' questions. The seminars typically cover new legislative acts, regulations, and activities of the Ministry.

The seminars are held in different regions of the country. This provides an opportunity for the Ministry to show the journalists real, concrete results from different projects. For instance, journalists can see the operation of visitor's centres in protected areas and the information centres in the Regional Inspectorates of Environment and Water.

In addition to the seminars, the Executive Environment Agency of the Ministry produces a daily bulletin on ambient air quality and the radiation in the country. This bulletin is provided to the Bulgarian Information Agency. Regional Inspectorates are obliged to send information to the mass-media if environmental monitoring of the different media (air, water, and soil) reveals pollution in excess of the admissible norms. There are also regular press-conferences in the Ministry.

The Ministry's work with journalists has yielded good results. Journalists become more aware of the activities of the Ministry and sensitive to environmental concerns. Accordingly, environmental reporting has become more impartial and accurate.

For more information, contact Press@moew.government.bg



CARIBBEAN ENVIRONMENTAL REPORTERS NETWORK (CERN)

CERN is an organisation for journalists who are interested in improving environmental reporting and communication in the Caribbean. Founded in 1993, CERN is a non-profit, non-governmental group of mass communication professionals. CERN seeks to facilitate exchange of news and provide information, resources, training, and reporting opportunities to journalists, producers, news organisations, and NGOs in the Caribbean.

In collaboration with a non-profit information NGO, Panos Institute, CERN has developed training workshops and produced fact sheets, print features, and radio programmes on a myriad of environmental phenomena in the region.

Every weekday morning at 9:00 on the radio, CERN's IslandBeat series broadcasts stories on people and their environment. IslandBeat reaches listeners throughout

Caribbean Environmental Reporters Network (CERN) (cont'd)

the English-speaking Caribbean. In addition, there is the printed IslandBeat series for regional newspapers, which documents community solutions to environmental problems and has been translated to accommodate other languages in the region including Creole, French, and Spanish. CERN also hosts a free exchange service for news photographs.

For more information, see <http://www.cernnet.net> or contact secretariat@cernnet.net



THE AARHUS CONVENTION AND THE MEDIA

Although journalists and the media are not the primary focus of the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (the Aarhus Convention), there are three key ways in which the Convention supports the role of the media and significantly assists the work of journalists: (1) the Convention assists journalists seeking information regarding stories they are investigating, (2) the Convention provides an impetus for officials to feed news to journalists, and (3) the Convention generates new topics for stories.

The Aarhus Convention can help journalists in their work in many ways. As members of the “public,” journalists are guaranteed, under Article 4 of the Convention, the right to request and receive environmental information. This includes, for example, information on the quality of air, soil, water, and human health and safety, as well as information on policies, decisions, and other administrative measures that may affect the environment or human health. It may be general information, or information on a specific aspect of environment or human health. The Convention requires authorities holding this information to provide it in a timely manner. Moreover, officials are required under Article 5 to proactively distribute information on these matters (for example, through a state-of-the-environment report), therefore increasing the information readily available to journalists.

The Convention sets new standards for officials in disseminating information. Instead of being wary guardians of information, officials now need to become the modern equivalent of town criers. Article 5 of the Convention imposes a strict duty on officials to report to the public, while Article 3.3 requires government authorities to promote environmental awareness and education of the public. As a result, officials increasingly look to cooperate with the mass media to fulfil these requirements and are actively providing more information to the media. [It is important to note here that although officials can use the media to assist in meeting their obligations, they should not rely only on the media to fulfil their obligations.]

The Aarhus Convention and the Media (cont'd)

Although there is no obligation for journalists to actually use the information provided by officials to educate the public on environmental matters, as they are independent of the State, in practice the information that journalists obtain as a result of the Convention generates many news stories. The Convention provides a new range of newsworthy events, themes, and topics that often are of interest to the media. For instance, the Convention obliges officials to provide information on the state of the environment and the actual state of human health and safety. It also requires officials to follow specific procedures for public access to information and public participation in decisionmaking, and it guarantees access through legal proceedings that ensure officials fulfil their obligations. Activities by civil society organisations and other members of the public to inform the public and encourage involvement in environmental decisionmaking also provide a fertile source of material for news stories.

*For more information on the Aarhus Convention and the media, see *Implementing the Aarhus Convention: a User Guide for Officials in the Eastern Europe and Caucasus Region* and *Implementing the Aarhus Convention: a User Guide for Civil Society in the Eastern Europe and Caucasus Region*, both of which are available at <http://www.rec.org/REC/Programs/PublicParticipation/PublicAwareness/ecca.html>*

Educating Community and Traditional Leaders

Traditional, religious, and local community leaders can play an influential or even decisive role in how people act. This is particularly true in rural areas. Education of these leaders can assist in facilitating the implementation of MEAs. In working with such leaders, particular attention may need to be paid to issues of:

- **Language:** educational materials may be more accessible if they are in the local language. Translation can greatly increase the costs, but it may be necessary to consider whether limited translation might make the material functionally accessible;
- **Literacy:** posters, radio presentations, and other approaches may be advisable if the local population (or leaders) have limited literacy;
- **Clarity and Plain Language:** The materials should be easily understood, particularly if they are written in what may be a person's second or third language. This means short sentences, simple words, and active verbs.

For example, in addition to the Zambian case study below, Uganda is producing simplified versions of environmental laws that will be translated into local languages and disseminated through District committees. In addition, see the case study on "Engaging Traditional Leaders in Ghana" following Guideline 39, as well as the case study on "Burkina Faso's Conference of the National Council on Environment and Sustainable Development" following Guideline 42.



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EDUCATING COMMUNITIES AND TRADITIONAL LEADERS IN THE GAMBIA

The Gambia's efforts to sensitise communities on environmental issues (including MEAs) is done through multi-disciplinary task forces (MDTFs) at the divisional levels. These MDTFs include environmental task forces. For example, the CAP 2015 Project on capacity building for environmental management, funded by UNDP, works through the MDTFs to train and sensitise target grassroots groups.

For more information, contact Mamour Jagneat at cap2015@qanet.gm

As part of The Gambia's strategy to sensitise local communities on environmental issues, traditional leaders are invited in consultative meetings on decisions that could affect their communities. They are also informed about international conventions signed by The Gambia. For example, the Forestry Department involves traditional leaders in sensitizing people on the causes of desertification and the advantages of tree planting. The Environmental Education and Communication (EEC) Unit of the NEA also involves traditional leaders in sensitization activities.

For more information, contact nea@gamtel.gm, bubupateh@yahoo.com, wildlife@gamtel.gm, and forestry.dept@gamtel.gm



MAKING MEAs ACCESSIBLE TO LOCAL COMMUNITIES IN ZAMBIA

Zambia is a party to more than 20 MEAs. As the effective implementation of these Agreements depends on the creation of an enabling environment at all levels, local communities involvement in environmental and natural resource management, and their capacity to understand the basics of the MEAs and why they are important is a key component to implementation.

In this context, Zambia simplified five and translated two MEAs, which were deemed to be among the highest priority for Zambia's current situation. The five MEAs were selected at a national consultative meeting, and they are:

- Convention on Biological Diversity (CBD);
- Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification Particularly in Africa (UNCCD);
- Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES);
- Convention on Wetlands of International Importance Especially as Waterfowl Habitat (Ramsar); and
- Convention Concerning the Protection of the World Cultural and Natural Heritage.

The conventions have been summarised in plain English, and the UNCCD and CBD were translated into two local vernacular languages, Tonga (for the Southern Province) and Lozi (for the Western Province).

Dissemination workshops for the CBD and UNCCD have been held in Western and Southern Provinces of Zambia on a pilot basis. The two provinces were chosen because of their high rates of biodiversity loss and persistent drought. During the workshops, presentations reviewed the MEAs and the importance of implementing and enforcing them at the national and local levels. Materials distributed included booklets in plain English and brochures in vernacular languages. Participants included government officials of line ministries, NGOs, private sector, political leaders, traditional leaders, and members of the local communities.

For more information, contact Mr. Ignatius Makumba at inmakumba@yahoo.com

In some instances, education may be limited because certain words or concepts may be lacking. In such cases, it may be necessary to agree on specific terms and their meanings.



DEVELOPING ENVIRONMENTAL TERMINOLOGY FOR TRADITIONAL LANGUAGES IN NORTHERN CANADA

Inuit communities in northern Canada, which speak the traditional languages, often find it difficult to fully understand or participate in the international environmental discussions. While they live close to the land and have a very good understanding of their environment, they do not necessarily think of it in the same ways as others. Accordingly, there are no standard words for “climate change”, “greenhouse gas”, or “biodiversity.”

So far, Inuit leaders, interpreters, and translators have improvised. They can describe the terms, but even then their words have multiple meanings. So, “climate change” could mean “weather changes” or “changes in the ice conditions” or something else.

In order to improve communications, the Nunavut Tunngavik Inc. (an Inuit organisation) co-sponsored a workshop in October 2005 to develop a glossary of 200 words relating to climate change with precise equivalents in English, as well as definitions of the terms.

For more information, see <http://www.tunngavik.com/>



Additional Resources On Environment, Religion, And Tradition

Increasingly, environmental leaders, activists, and institutions are working with religious leaders and traditional leaders. Often religious tenets, traditional values, and environmental concerns are closely tied. The following references provide an example of some resources on this topic.

Thomas R. Dunlop, *Faith in Nature: Environmentalism as Religious Quest* (University of Washington Press 2004).

Richard C. Foltz, *Worldviews, Religion, and the Environment: A Global Anthology* (Wadsworth 2002).

David L. Gosling, *Religion and Ecology in India and South East Asia* (Routledge 2001).

Brennan R. Hill, *Christian Faith and the Environment: Making Vital Connections* (Orbis 1998).

Leslie Lang, *Religion's Role in Preserving the Environment: A Nationwide Leadership Conference for Catholic, Jewish, and Protestant Seminaries* (1994).

Martin Palmer & Victoria Findlay, *Faith in Conservation: New Approaches to Religions and the Environment* (World Bank 2003).

Ralph Tanner & Colin Mitchell, *Religion and the Environment* (Palgrave Macmillan 2002).

UNEP, *Cultural and Spiritual Values of Biodiversity* (UNEP 1999).

UNEP, *Earth and Faith: A Book of Reflection for Action* (UNEP 2000).

UNEP, *Environmental Problems Affecting the Traditional Lifestyles of Indigenous Peoples in the Russian North* (UNEP 1998) (bilingual English/Russian).

European Christian Environmental Network Web site: <http://www.ecen.org/>

Other Approaches for Education and Public Awareness

States, MEA Secretariats, and international organisations have adopted a number of other approaches to promoting environmental education and public awareness. These include, for example, guiding frameworks for sustainable environmental education, information centres, environmental raffles (which can also be used for fund raising), and environmental “holidays.”



INFORMATION, EDUCATION, AND COMMUNICATION (IEC): THE LINK TO COMPLIANCE UNDER THE MONTREAL PROTOCOL

The Montreal Protocol has been in force for 15 years, and the Multilateral Fund operating for more than 10 years. The remarkable success of the phase-out of ozone depleting substances (ODS) in developing countries thus far can be attributed in large part to the far-reaching policies and measures pursued by the Multilateral Fund through investment and non-investment projects. The Fund has recognised that legislative, regulatory, and technological interventions need to be complemented by measures to enhance the gathering and dissemination of information and knowledge. This recognition has been the basis for strengthening the National Ozone Units (NOUs) and other relevant structures in countries that operate under Article 5 of the Protocol (Article 5 countries).

However, the task is not yet completed, and the remaining phase-out will have to be addressed in a shorter time period, with limited resources, and on an equitable basis. In this scenario, enhanced awareness is essential. From now until 2010 – when most of the phase-out should be completed by developing countries, and a major compliance milestone under this MEA – awareness among key actors such as industry, customs, and government officials, as well as consumers, will assume far greater importance than in the past if compliance targets are to be met and the phase-out sustained. In particular, it is hoped that the enhanced awareness at high levels of governments and industry, and among the general public will encourage and inspire countries to take greater ownership of the compliance process, thus not continuing to rely heavily on external assistance. Such increased ownership will pave the way for self-reliance that will become necessary beyond the life of the Multilateral Fund.

As awareness raising needs vary from State to State, and are closely related to local cultural and socio-economic factors, it is essential to adopt a country-driven approach. Already, countries are engaged in carrying out a variety of IEC activities, with varying degrees of outreach, impact, and success. Building upon these experiences, UNEP under the Multilateral Fund is encouraging NOUs to develop comprehensive national IEC strategies that includes the objectives, methodology, and specific project activities for a targeted and time-bound IEC campaign to assist the Government with meeting its compliance targets under the Montreal Protocol and the applicable Amendments from today until 2010. Specific objectives of a strategy should be to:

- **Support compliance** through the wider involvement of civil society and reaching out to specific sectors that have not yet received assistance,

Information, Education, and Communication (IEC): The Link to Compliance under the Montreal Protocol (cont'd)

particularly the small and medium-sized enterprise (SME) sector, the end user and informal servicing sectors through regional awareness and education activities.

- **Raise high-level political awareness** to ensure sustainable commitment and attention to comply with the Montreal Protocol.
- **Sustain momentum** during the compliance period by securing the broader involvement and support of the general public in the implementation of the Montreal Protocol, ensuring a smooth transition to an ODS-free society, and preventing illegal trade of ODS and ODS-containing equipment.
- **Prevent “back sliding”** to ODS use due to various factors, including ODS containing equipment dumping, by promoting active involvement of local organisations and NGOs.

The Communication Strategy for Global Compliance with the Montreal Protocol is available at http://www.unep.fr/ozonaction/library/mmc/lib_detail.asp?r=4394. For more information, contact ozoneinfo@unep.org or ozonaction@unep.fr



SUSTAINABLE ENVIRONMENTAL EDUCATION IN THE KYRGYZ REPUBLIC

In the Kyrgyz Republic, leading environmental experts from the institutes of higher education, Ministry of Environment, Ministry of Education, and NGOs have developed the concept of sustainable environmental education. “Sustainable environmental education” is defined as a continuous process of education, training, and personal development that seeks to form the system of scientific and practical knowledge, skills, values, behavior, and activities in the fields of environmental protection, sustainable environmental use and consumption, and education. There are six stages of sustainable environmental education:

- (1) Environmental education for preschool children. At this stage, the objective is to promote the background development of environmental culture and creativity of children. Preschool environmental education is characterized by emotional and interactive features that seek to build knowledge and form an environmental vision through activities, such as participating in environmental protection and appreciation of natural heritage.
- (2) Environmental education for primary schools and extracurricular establishments. This stage focuses on building the concept of responsibility to the environment. It is implemented by incorporating environmental considerations into courses on “Natural Science of the Kyrgyz Republic (Rodinovedinie),” “Natural Sciences,” and “Basics of Geoecology” in scholastic curricula, launching environmentally oriented schools and classes, and diversifying environmental NGOs.
- (3) Environmental education in secondary professional schools. The environmental education programmes in these professional schools includes a combination of

Sustainable Environmental Education in the Kyrgyz Republic (cont'd)

essential knowledge in this area; application of skills in production processes, both routine and for emergency cases; and study of legislative documents and norms in the fields of industrial safety and environment protection.

- (4) Environmental education in institutes of higher education. Environmental education in colleges and universities focuses on building knowledge relating to the interactions among human beings, society, technology, and nature, which were studied initially in secondary school. Advanced environmental studies are based on elaborating the core issues of environmental sustainable development in two key clusters: general ecology and applied ecology. Environmental education in higher educational institutes seeks to inculcate skills to assess the impact of professional activities on the environment.
- (5) Advanced training of state employees, production specialists, and personnel of different establishments and governing bodies. The objective of this stage is to provide the state employees and specialists involved in economics and decisionmaking at the national and regional levels with the information on environment, environmental law, and environmental management that they need to ensure that their decisions are environmentally, socially, and economically sustainable.
- (6) Environmental education for the public sector. The objective of this environmental education, which is performed by public organizations, is to create the conditions for people to acquire knowledge, values, and skills that build individual and collective capacity to make decisions at the national, regional, and local levels that improve the quality of life while preserving a favorable environment and without threatening the future of the planet.

Under this project, an assessment and expert evaluation were performed of State educational standards of higher environmental education for Masters' and Diploma Specialist's degrees. An Interdepartmental Expert Committee has obtained approval of new State educational standards as well as implementation of the sustainable environmental education concept.

A Central Asian Working Group has also supported the development and improvement of environmental education. The Working Group developed two databases. It has completed a database of experts in environmental education and sustainable development that work at institutes of higher education in the Republic, and it is developing a database of experts at schools of the Republic.

For more information, see <http://ecoeducation.host.net.kg/docs/1.htm> or contact Sonun Adresheva at the Ministry of Education and Culture at sonun@monc.bishkek.gov.kg or telephone +996-312-62-15-19. Sustainable Environmental Education in the Kyrgyz Republic .



UNEP ENVIRONMENTAL EDUCATION AND TRAINING

UNEP's work in environmental education and training has contributed to general awareness about the environment and fostered environmental education in States around the world. The environmental education and training programme has:

- Developed environmental education guidelines and strategies as well as educational materials, curriculum prototypes, modules, posters and audiovisual aids and promoted their local adaptation.
- Trained key educational personnel to serve as a multiplier effect for fostering the development of environmental education.
- Fostered international cooperation in environmental education through technical and financial support, field missions and participation in relevant activities of international governmental and non-governmental organizations.
- Supported member states, of which ninety-five States have adopted environmental education as a key component in their national formal and non-formal education, while more are doing so.
- Developed curriculum prototypes for primary and secondary schools and for teachers on the basis of sub-regional environmental and educational needs and priorities for Africa, the Arab states, Latin America and the Caribbean, and the Asia-Pacific region.

The goals of UNEP environmental education activities include:

- Sensitizing individuals, groups, communities and nations to their ecological, economic, social and cultural interdependence and developing general environmental and development awareness.
- Providing everyone with the opportunity to acquire awareness, knowledge, skills and commitment in order to protect and improve our environment for sustainable development.
- Incorporating environment, development and population dimensions into the educational processes of all States.
- Creating new environment-friendly behavior patterns and lifestyles and fostering ethical responsibilities.
- Fostering environmental education for all.
- Promoting effective public participation in decision making with respect to environment and development issues.

For more information, see <http://www.unep.org/Training/> or contact env.edu@unep.org



ROMANIA'S INFORMATION CENTRE – INFOTERRA ROMANIA

Infoterra Romania is the only office specialising in information and references regarding the Romanian environment. Its services include the administration of the Environment Library of Romania. It is also the National Focal Point for INFOTERRA, the global network of information exchange coordinated by UNEP. Infoterra Romania is a non-governmental organization, and it is registered as a foundation.



Infoterra Romania seeks to develop and implement an environmental information network. It also seeks to ensure access to information and the exchange of scientific and technical information relating to the national, regional, and international environments. Infoterra Romania also serves as an interface between the Ministry of Environment and civil society, with the aim of facilitating access to environmental information for all those interested.

Infoterra Romania manages an internet-based database, which belongs to the environmental library. Information in this database is updated twice a year, and is grouped in 12 thematic areas. Each area has approximately 100 bibliographical descriptions, along with keywords and short summaries of the documents from its environmental library. All these documents (magazine articles, essays, standards, etc.) can be consulted free of charge in library's reading room. They can also be copied, for a fixed price. Infoterra Romania also offers related bibliographic, research, and documentation services

For more information, see <http://www.mappm.ro/infoterra/eng/index.html> (in English) or contact infoterra@mappm.ro



KAZAKHSTAN'S CENTER FOR RETRAINING AND CAPACITY BUILDING IN ENVIRONMENTAL PROTECTION AND USE OF NATURAL RESOURCES

The Ministry of Environmental Protection of the Republic of Kazakhstan established the Center for Retraining and Capacity Building in Environmental Protection and Nature Use ("Center") as an institution attached to the Republic State Organization "Informational and Analytical Center of the Ministry of Environmental Protection of the Republic of Kazakhstan."

The Center organizes and holds retraining and capacity building courses in environment protection and nature use for leaders and specialists from the central government, its territorial divisions, public institutions, private enterprises, and NGOs, as well as workers from enterprises engaged in activities relating to the use of natural resources.

Kazakhstan's Center for Retraining and Capacity Building in Environmental Protection and Use of Natural Resources (cont'd)

The course of education (which lasts 40 hours) includes theoretical, practical, and special studies on the following topics:

- Government laws, regulations, and institutions regarding environmental protection and use of natural resources;
- Ecological monitoring in the sphere of environmental protection and natural resource use;
- Public EIA (referred to as "ecological expertise") and licensing requirements regarding environmental protection and natural resource use; and
- Development of computer skills.

At the end of the course of study, students receive a certificate of Ministry of Environmental Protection of the Republic of Kazakhstan.

For more information, see <http://www.nature.kz/education/index.html> (in Russian) or contact Mrs. Luydmila Shabanova, Deputy Director Republic State Organization "Informational and Analytical Center of the Ministry of Environmental Protection of the Republic of Kazakhstan" at Lvshabanova@mail.ru



ENVIRONMENTAL CALENDAR AND ENVIRONMENTAL "HOLIDAYS"

To focus public attention and increase public awareness on particular issues, the United Nations and States have designated specific days during the year as Environmental "Holidays." Some of these include:

- February 2: Wetlands Day
- March 21: World Forestry Day
- March 22: World Water Day
- March 23: World Meteorological Day
- April 18: World Heritage Day
- April 22: Earth Day
- May 22: International Day for Biological Diversity
- June 5: World Environment Day
- June 17: World Day to Combat Desertification and Drought
- July 11: World Population Day
- September 16: International Day for the Preservation of the Ozone Layer (World Ozone Day)
- September 28: Green Consumer Day
- October 1-7: World Wildlife Week

In addition, many States have designated various national environmental holidays (such as Arbor Day in the United States).

Such environmental days often provide a focus for awareness raising and educational

Environmental Calendar and Environmental “Holidays”(cont’d)

campaign organized by Government agencies, NGOs, primary and secondary schools, and other institutions. Moreover, States sometimes organize broader events around a particular day; for example, Suriname has observed a Green Week around the time of the World Environment Day.

Experience suggests that the media may be more receptive to the environmental message when it is framed in the context of one of the internationally designated environmental days.

CHECKLIST ON FRAMING AN ENVIRONMENTAL MESSAGE

- Use familiar language (including common words and short sentences).
- Communicate the basic message in a values way, rather than through technical terms (for example “If you make a mess, clean it up.” or “If you break it, you must pay for it.”)
- Keep the message simple.
- Develop a common message (to be used by multiple actors).
- Be consistent in communicating your message.
- Test out the message on people who do not work on the issue. Test both the substantive idea, as well as the language for communicating the idea. This can be done informally with your family (including 8-year-old children), friends, and acquaintances. It can also be done more formally, for example through focus groups.
- Use examples to illustrate your point.
- Explain why a particular action is important (for example, it is good for health, economy, fun, protecting property, etc.).
- Give credit where credit is due.



Additional Resources On Environmental Awareness And Education

James L. Elder, *A Field Guide to Environmental Literacy: Making Strategic Investments in Environmental Education* (Environmental Education Coalition 2003).

Harold R. Hungerford et al. (eds.), *Essential Readings in Environmental Education* (2nd ed.) (Stipes Pub. 2001).

Gregory A. Smith & Dilafruz R. Williams (eds.), *Ecological Education in Action: On Weaving Education, Culture, and the Environment* (SUNY Press 1998).

David Sobel, *Place-Based Education: Connecting Classrooms & Communities* (Orion Society 2004).

Daniella Tilbury et al. (eds.), *Education and Sustainability: Responding to the Global Challenge* (IUCN 2002).

UNEP, *Eco Schools Primary Schools Package* (UNEP 2005) (includes “Theo and the Giant Plastic Ball” and “Tessa and the Fishy Mystery”).

UNEP, *Eco Schools Secondary Schools Package* (UNEP 2005) (includes “Water World”, “Pachamama: Teachers Guide”, and “Tunza”).

Additional Resources On Environmental Awareness And Education (Cont'd)

UNEP, Ozzy Ozone Education Pack (available from <http://www.unep.fr/ozonaction>) and Ozzy Ozone Kids Corner (<http://www.ozzyozone.org>).

See also the following Web sites:

Australia's Department of the Environment and Heritage site on Environmental Education (with many links on environmental education nationally and internationally): <http://www.deh.gov.au/education/>

Canadian Journal of Environmental Education: <http://www.uleth.ca/edu/research/ictrd/cjee/>

Center for Global Environmental Education: <http://www.cgee.hamline.edu>

Council for Environmental Education: <http://www.cee.org.uk/>

Earth Day Network (EDN): <http://www.earthday.net>

EnviroEducation: <http://www.enviroeducation.com> (providing an environmental education directory)

EnviroLink: <http://www.envirolink.org> (with a vast internet library on environmental resources)

Environmental Education and Training Partnership: <http://www.eetap.org>

Environmental Education Exchange: <http://www.eeexchange.org>

Environmental Education Working Group (of the European Christian Environmental Network):
<http://www.ecen.org/topeduc.shtml>

Foundation for Environmental Education: <http://www.fee-international.org> (with programs for beaches, forests, schools, secondary schools, etc.)

GLOBE Program: <http://www.globe.gov>

Global Higher Education for Sustainability Partnership (GHESP): <http://webapps01.un.org/dsd/partnerships/public/partnerships/71.html>

National Environmental Education and Training Foundation: <http://www.neetf.org>

National Environmental Education Week: <http://www.eeweek.org>

North American Association for Environmental Education: <http://naaee.org> (including EE-Link, a resource designed to support students, teachers, and professions in K-12 environmental education)

RARE: http://www.rareconservation.org/rare_pride.htm

Second Nature: Education for Sustainability: <http://www.secondnature.org/> (providing assistance to colleges and universities)

UNEP Environmental Education and Training: <http://www.unep.org/training/>

USEPA Environmental Education Center: <http://www.epa.gov/teachers/>

☑ CHECKLIST FOR PROMOTING COMPLIANCE AND ENFORCEMENT THROUGH THE MEDIA AND PUBLIC AWARENESS

When developing strategies for promoting education and public awareness of MEAs, States and Secretariats may wish to consider structured and strategic approaches that respond to specific needs within the specific contexts. Considerations could include:

- developing a communications strategy, rather than an uncoordinated series of isolated activities;
 - this strategy should clearly state the objectives, methodology, and specific project activities for a targeted and time-bound campaign for promoting compliance;
 - the strategy should identify the target audiences, which could include (for example) civil society, specific business sectors, and end users;
 - this strategy should be integrated into, or at least cross-referenced with, comprehensive plans such as a Country Programme or sectoral strategies (such as Refrigerant Management Plans);
 - link ad hoc awareness and communications components of larger projects to one another and to the broader communications strategy. One way to do this is by disseminating the results and ideas of the project outside the immediate context of that particular project;
 - in addition to mainstreaming communications components into other projects, communications activities should emphasise more intensive, repeated, and synergistic awareness-raising and educational activities;
- communications activities should follow the communications strategy. This may include event-driven activities (such as Ozone Day), but communication activities should not be limited to such isolated efforts; and
- according political support to education and outreach; this can be done in part through adequate staffing:
 - designating communications or educational professionals, rather than government officials or technical experts, to be responsible for developing and implementing the communications strategy;
 - ensuring that the designated communications person has adequate time and resources to focus on public awareness activities and working with the media, in part by focusing their terms of reference on those activities;
 - in order to foster political support, the strategy could include activities directed toward high-level politicians to ensure sustainable commitment and attention for compliance.effectiveness?

Awareness and Education on Rights, Responsibilities, and Impacts

- [44]** (a) *Generating public awareness and environmental education, particularly among targeted groups, about relevant laws and regulations and about their rights, interests, duties and responsibilities, as well as about the social, environmental and economic consequences of non-compliance;*

The link between environmental law and social responsibility in the context of enforcement can best be illustrated through environmental education and public awareness initiatives. Public awareness and participation is important in all aspects of enforcement, not only in understanding basic environment and human rights, but also in fostering a sense of responsibility and proactive environmental citizenship. The following examples focus on environmental awareness raising, public participation, and environmental rights.



CHINA'S PROVINCIAL ENVIRONMENTAL INFORMATION SYSTEM

China has set up environmental information system in each of its 27 provinces and autonomous regions supported by a technical assistance loan from the World Bank. China has been publishing its annual report on the state of environment for 10 years, and 46 Chinese cities issue a weekly report on urban air quality.



AUSTRALIA'S "STATE OF THE ENVIRONMENT REPORTING" MECHANISM

Australia has adopted "state of the environment reporting" as a mechanism for public education on environmental matters and increasingly using the Internet to promote information exchange among the scientific community, the Government and the public.



THE BUYER BEWARE CAMPAIGN IN THE CARIBBEAN

In addition to educating citizens, it is often important to educate visitors, particularly in instances where visitors might be tempted to purchase products made with species that are threatened with extinction. Following a Caribbean CITES Implementation Training Seminar in 1992, a brochure campaign was launched to raise awareness of visitors to the region regarding CITES. Caribbean nations and the CITES Secretariat requested the brochure, whose development was supported by the Conservation Treaty Support Fund, DHL Airways Inc, National Fish and Wildlife Foundation, Special Expeditions Inc, and World Wildlife Fund/TRAFFIC USA.

The primary focus of the brochure was to educate visitors to the Caribbean about the biological diversity of the Caribbean, CITES, and CITES-listed species in the Caribbean. Its tagline was "some souvenirs you buy in the Caribbean could end up costing a lot more than you paid for them".

The brochure stipulates consideration of not purchasing sea turtles, certain corals, some plants, certain reptiles, some shells, and certain birds, as well as goods including products from those plants and animals. These goods include certain jewelry, carvings, handbags, shoes, belts, watchstraps, and products containing feathers. English, French, and Spanish versions of the brochure were distributed to visitors in a number of forums.

For more information, contact Ms. Kim Downes in the Ministry of Housing, Lands and the Environment downesk@gob.bb

CH II - D



SENSITIZING AND COMPENSATING COMMUNITY GROUPS TO PROTECT SEA TURTLES IN BENIN

During mating season, sea turtles return to the beaches to lay their eggs. At this time, local communities have traditionally hunted the turtles and collected their eggs. To protect the turtles in Benin, the NGO Tropical Nature started a project to work with communities who live near the beaches where turtles lay their eggs. The NGO educated the communities about the importance of turtles and their endangered status. They helped the communities to understand the need to stop hunting the turtles and collecting their eggs. Accordingly, the villages now leave the eggs intact and do not hunt the turtles.

In addition, the NGO worked with the communities



U.S. Fish and Wildlife Service

Collecting Kemp's Ridley sea turtle eggs.

Sensitizing and Compensating Community Groups to Protect Sea Turtles in Benin (cont'd)

to establish community watch groups to monitor the situation and protect the turtles during the day and also during the night. These groups receive compensation for their efforts.

This experience has shown that when communities can participate enthusiastically and independently in conservation efforts when they are sensitized. In addition, this experience highlights the role that NGOs can play in supplementing Governmental efforts to implement MEAs and environmental laws on the ground, especially when the State does not have the resources to devote to effective implementation and enforcement.

For more information, see <http://ntong-benin.ifrance.com> or contact ntongmu@yahoo.com

Celebrities in Media Campaigns

- [44]** (b) *Promoting responsible action in the community through the media by involving key public players, decision-makers and opinion-builders in such campaigns;*

As in any advertisement or public awareness campaign, the involvement of people that are well-known and respected public figures and effective use of the media can be a potent way of increasing understanding of the importance of environmental issues and enforcement. Newspapers, television, radio, magazines, and other media can be used to quickly reach a large number of people.



U.S. CHEFS JOIN CAMPAIGN TO SAVE CHILEAN SEA BASS

Most U.S. citizens have never heard of the Patagonian Toothfish. But many have enjoyed its moist, white flesh at upscale seafood restaurants across the nation. The fish is commonly known in the United States by a name devised to increase its marketability - Chilean sea bass. The popularity of Chilean sea bass as a menu item in restaurants was pushing the fish to the edge of collapse. Ten years ago, Chilean sea bass was virtually unknown in the United States, but since then the fish has become a staple on many upscale menus. Increasingly dire warnings suggested that the trendy toothfish had become too popular for its own good. Environmentalists warned that unless demand is reduced, the fish could face commercial extinction in as little as five years. Steadily declining annual catches signaled trouble and led environmental groups to partner with some of the chefs who first popularized the dish in a campaign to reduce demand for the toothfish. The goal of the "Take a Pass on Chilean Sea Bass" campaign was to encourage chefs to remove the beleaguered fish from their menus until population began to recover from widespread and dangerous over fishing, most of which is done by illegal "pirate" fishing boat.

More than 1000 chefs nationwide agreed to give the prehistoric-looking fish a break. "Chefs are the opinion leaders of the food world" said Andrea Kavanagh, campaign manager for the National Environmental Trust (NET), which spearheaded the campaign. "We began with six cities, premier U.S. dining markets, and asked chefs to agree to stop serving the fish until populations began to recover. Now chefs in other cities are coming to us to sign up, and taking Chilean sea bass off their menus." Restaurant sales account for some 70 percent of the Chilean sea bass consumed in the United States. Kavanagh also hopes, however to involve consumers in the programme and encourage them not to purchase the fish at their local markets. By drastically reducing demand for fish, the campaign hoped to curb the illegal fishing that threatens the survival of the species. One chef who signed onto the campaign is Cesare Casella of the acclaimed Tuscan restaurant Beppe in New York City's Flatiron

U.S. Chefs Join Campaign to Save Chilean Sea Bass (cont'd)

district. "The chefs were responsible for creating a trend," said Casella, "but if we can stop the use of Chilean sea bass the demand will drop for the illegal fish," he continued. "In the last few years, they have been getting smaller and smaller, while the quality is getting worse. Now, most of the Chilean sea bass on the market is illegal, and it has been frozen. I agree 100 percent with the campaign to improve the stocks of this fish for the future."

The Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), the 24-member international body charged with regulating trade in Patagonian Toothfish, has been successful in recent years both in reducing the Illegal, Unregulated, and Unreported (IUU) fishing in Toothfish and in documenting vessel locations and catch amounts. Each of the last two years (2004 and 2005) has seen dramatic declines in the number of IUU fish taken. Moreover, the last several years have seen the advent of two new technologies, the electronic Vessel Monitoring System (VMS) which uses satellite technology to confirm vessels are within allowed areas, and the electronic Catch Documentation Scheme (CDS) which electronically records catch amounts and prevents various types of fraud. These new technologies promise to strengthen CCAMLR's regulatory and enforcement abilities in the years ahead.

As a result of these improvements, and due to close cooperation between CCAMLR nations, it is now possible for those purchasing Toothfish to confirm with their fishmongers or restaurateurs that the product they have purchased was harvested and documented according to CCAMLR regulations. The campaign by the chefs and environmentalists continues, as of March 2006, due to concerns about slow recovery of the fish-stock.

For more information on the campaign, see <http://www.net.org/marine/csbl/> or contact Gerry Leape ggleape@net.org or Andrea Kavanagh akavanagh@net.org

For more information on CCAMLR and its efforts with the Toothfish, see <http://www.ccamlr.org/pu/E/sc/fish-monit/iuu-intro.htm>



Greenpeace (1991)

Patagonian toothfish, also known as Chilean Sea Bass.

Focusing Environmental Awareness Campaigns for Specific Sectors

[44] (c) *Organizing campaigns for fostering environmental awareness among communities, non-governmental organizations, the private sector and industrial and trade associations;*

Awareness raising campaigns are often most successful when they are targeted at specific groups because information can be tailored to the activities, needs and challenges of the group. Additionally, involving organisations and communities in environmental protection and enforcement can create a sense of stewardship towards the environment, ease hardship through the collaboration and provide a forum for new ideas and greater participation. Examples of such collaboration and stewardship are provided in the initiatives of some NGOs and organisations in the private sectors in States around the world. They have been active in raising public awareness of environment development issues and mobilised people to take actions that have contributed to positive changes for the environment.

The various environmental “holidays” described following Guideline 44, above, provide one context for many States to organise campaigns to foster environmental awareness.



[44]

CH II - D



INDUSTRY ENVIRONMENTAL PROFILES TO ASSIST COMPLIANCE

The U.S. Environmental Protection Agency (USEPA) has created a series of “sector notebooks” that profile the primary pollution-control challenges facing many industry sectors. In clear and easy-to-read language, each notebook explains the issues related to a sector. Chapters include a description of the industry and its process, pollutants released, applicable legal requirements, pollution-control and compliance challenges, pollution-prevention opportunities, and bibliographic resources for further research.

These profiles are widely popular to audiences including community and environmental advocates, assistance providers, inspectors and auditors, educators, engineers, public health professionals, government agencies, lawyers, and facility environmental managers. Currently, there are more than 30 profiles that cover sectors found in many nations, including agriculture, mining, metal fabrication, aerospace, oil and gas extraction, petroleum refining, chemicals, transportation, rubber and plastic, wood products, pharmaceuticals, iron and steel, textiles, electric power generation, and local-government operations.

These profiles provide a quick and inexpensive way to educate the regulated sectoral communities and to increase their understanding that compliance is economically and technically feasible. As such, they have proven very useful to achieving the high rates

Industry Environmental Profiles to Assist Compliance (cont'd)

of “voluntary compliance” enjoyed in the United States.

For a complete list of titles that are available for free from the Web, see <http://www.epa.gov/compliance/resources/publications/assistance/sectors/notebooks/index.html>

Also using the Internet, USEPA – working with industry, academic institutions, environmental groups, and other agencies – sponsors virtual Compliance Assistance Centers. To address the requirement of a specific industry sector, each Web-based center provides regulated entities with plain-language information and guidance on environmental requirements and ways to save money through pollution-control techniques. In addition to Web sites, the centers use telephone assistance lines, fax-back systems, and e-mail discussion groups to foster understanding.

For more information on these virtual centers, see <http://www.assistancecenters.net/>



SITE SUPPORT GROUPS IN SIERRA LEONE

To foster community and civil society involvement in the protection of wildlife (particularly birds) in Sierra Leone, the Government and NGOs have developed site support groups. Eleven important bird areas were identified in the country using international criteria. After a series of sensitization workshops and seminars, a group of young men and women emerged to protect each site. The capacity of the groups were also built to sensitize their communities on environmental issues, act as watchdogs for illegal environmental activities, and conduct simple monitoring activities. The site support groups are active in reporting environmental crimes to the Police, the Conservation Society of Sierra Leone, and the Wildlife Division. For example, after the establishment of a Chimpanzee Sanctuary, members of site support groups have reported locations of pet chimpanzees (particularly in the city), which has led to their confiscation and placement in the sanctuary. To date, there are 70 chimpanzees in the sanctuary.

This project to develop and implement site support groups was funded by the Global Environment Facility. The Forestry Division (of the Ministry of Agriculture, Food Security and Forestry), the Conservation Society of Sierra Leone, UNDP Sierra Leone, and Birdlife International were implementing partners.

For more information, contact cssl@sierratel.sl



EDUCATING LOCAL COMMUNITIES TO RESTORE SOILS IN BENIN

Combating desertification is a priority for the Government of Benin. So the Government undertook activities to restore soils and degraded land within the framework of a programme on natural resource management (known by its French acronym, PGRN) and through a project on natural resource and soil management (known by its French acronym, PGTRN). These activities were conducted in a participatory manner involving the people living in the municipalities of Boukoumbé, Ouaké, Ouessè, and Aplahoué, all of whom had experienced desertification.

In a participatory diagnostic process, the communities identified the problems of degradation of lands and loss of fertility of grounds as major problems. To address these problems, the PGRN and PGTRN provided support to the communities to build their capacity to fight erosion and to restore the fertility of the soil. The communities learned how to develop soil maps using aerial photos.

Each of the affected villages developed a soil map. This was a particularly important step, since the maps facilitated more coordinated and effective land management and it also touched on land tenure, which Benin considered important to effectively combat desertification (people were perceived as being more likely to invest energy and resources in fighting desertification and land degradation to land that they owned).

The communities also undertook various activities to reforest degraded lands. The reforestation had dual purposes: to combat desertification and to provide a source of fuel. To reduce erosion, the communities also built rock retaining walls following the contour lines and strengthened them with plantations vetivers (an East Indian grass). Plants for restoring fertility were cultivated, and compost pits were constructed.

Benin's experiences in working with local communities to combat desertification has yielded some lessons learned. First, capacity building is key to combating desertification (e.g., in teaching illiterate communities how to read aerial photos and how to draw contour lines). Land tenure remains an important tool to effectively combating desertification. From these experiences, Benin has developed a draft law on rural land taxes, which the National Assembly is reviewing. This law would promote sustainable land management, and would focus on local communities.

For more information, see <http://www.mehubenin.net> and <https://bch-cbd.naturalsciences.be/benin/> or contact cbbes_ong2002@yahoo.fr

Environmental Awareness in Teaching Programmes

[44] (d) *Inclusion of awareness and environmental educational programmes in schools and other educational establishments as part of education;*

Environmental awareness, although essential to good citizenship, is not always a prominent feature of education programmes in institutions of primary or higher learning. Agenda 21 states that “education is critical for promoting sustainable development and improving the capacity of the people to address environment and development issues”, moreover, education is stated to be an indispensable means of “achieving environmental and ethical awareness, values and attitudes, skills and behavior consistent with sustainable development and effective public participation in decision-making” (Chapter 36). This emphasis has influenced reform of educational systems and practices in many States already where environmental education is being introduced into the curricular of educational institutions for pre-school through institutions of higher learning.

“Mainstreaming” environmental education programmes into schools as a regular part of the curriculum increase public environmental awareness and demonstrates a commitment to environmental protection. Environmental education can be integrated into existing disciplines or it can be taught as a subject in its own right. It can be taught as early as primary school as well as in adult education programmes.



ENVIRONMENTAL EDUCATION IN SIERRA LEONE

Since 1986, the Conservation Society of Sierra Leone, a local NGO, has undertaken a range of initiatives to raise environmental awareness and improve environmental education in Sierra Leone. It has worked with secondary and primary schools to implement environmental education through extracurricular activities such as the establishment of Nature Clubs and integration of environmental themes in other subjects, or “cross-curricula” education for secondary schools. To achieve the maximum output of cross-curricula environmental education in schools, the Society in collaboration with the Ministry of Education has produced a teachers’ guide for environmental education in English, Mathematics, Science, and Social Studies classes with an additional source book that gives an overall background on national and international environmental issues. These books were written by Sierra Leonean teachers in an intensive two-week writing workshop. Funds for the project were provided by the European Union and the Royal Society for the Protection of Birds, UK. The books were distributed free to all Junior Secondary Schools in the country after several training workshops for teachers were organized.

At the tertiary level, the Society has been instrumental in inculcating Environmental Education as a subject in the curriculum for both undergraduate and post-graduate levels

Environmental Education in Sierra Leone (cont'd)

in the Department of Biological Sciences and Environmental Science of the Njala University of Sierra Leone. Through this curriculum, university students participate in 3-month internships at the Society during which time they conduct environmental research.

For more information, contact cssl@sierratel.sl



SOUTH EAST ASIA AND ENVIRONMENTAL EDUCATION

Environmental Education became fully integrated into the school curricula of nearly every South Asian State in the 1970s. There has also been considerable interest in integrating environmental concepts into adult education and literacy programmes in South Asia. For example, the Asia-South Pacific Bureau of Adult Education established a network of environmental educators in 1992. Many States use formal education centres as sources of environmental education. Indonesia, for example, has promoted environmental consciousness through its 54 Environmental Study Centers.



BEYOND GREY PINSTRIPES: PREPARING MBAs FOR SOCIAL AND ENVIRONMENTAL STEWARDSHIP

In 1998, the World Resources Institute (WRI) published *Grey Pinstripes with Green Ties*, a report that examined how 37 different Masters of Business Administration (MBA) programmes include topics on environmental management. The following year, WRI partnered with the Aspen Institute to expand the report by examining how MBA programmes address issues of social impact management. This led to the creation of *Beyond Grey Pinstripes*.

Over time, *Beyond Grey Pinstripes* has grown. It is now used by tens of thousands of students, academics, and corporations. *Beyond Grey Pinstripes* is a biennial survey and ranking of business schools, focusing on innovative full-time MBA programmes and faculty that lead the way in integrating issues of social and environmental stewardship into business school curricula and research. These programmes and pioneering faculty are preparing students for the reality of tomorrow's markets, equipping them with an understanding of social, environmental, and economic perspectives required for business success in a competitive global economy. The current website contains detailed information on more than 130 global MBA programmes.

This survey allows prospective and current students, faculty, and administrators to compare best practices. For corporate recruiters and human resource executives, the results help to identify the MBA programmes that produce well-rounded graduates who can lead business in the 21st century.

Beyond Grey Pinstripes: Preparing MBAs for Social and Environmental Stewardship (cont'd)

The survey promotes and celebrates innovation in business education and recognizes faculty pioneers. It does so through rankings of MBA programs and Faculty Pioneer Awards, which call attention to the specific institutions and individuals that do this work well. The survey also informs prospective students about environmental and social impact management programmes in the different programmes that they might consider. It also informs corporate recruiters regarding which business schools are providing integrated training in social and environmental skills as part of business decisionmaking. As such the survey seeks to set a higher standard for MBA programmes by challenging business schools to incorporate social and environmental impact management topics into their curricula. Finally, the survey facilitates conversation and dissemination of best practices in teaching, research, and extracurricular activities. The website's search function on the website provides access to information (often including syllabi) on thousands of courses, journal articles, and more.

For more information, see <http://www.beyondgreypinstripes.org/index.cfm>



NEW YORK'S HIGH SCHOOL FOR ENVIRONMENTAL STUDIES

The High School for Environmental Studies (HSES) is a public high school in New York City. It was established to provide high school students (generally ages 13-18) with hands-on-experiences and education aimed at encouraging youth to connect to their environment. HSES programmes foster and build upon the children's natural interest in the outdoors. This is particularly challenging, though, in an urban context. As such, HSES is a potential model for comprehensive urban environmental education. The HSES programme not only fosters environmental awareness and eventual professional development, but it also allows urban youth to engage with their natural surroundings.

The students at HSES include a combination of those students from around New York City who want to attend the high school (in order to take advantage of the environmental curriculum) and those students who live near the school (but are not necessarily interested in environmental issues). As such, the school not only builds environmental awareness and engagement, but it also fosters communication and community among people of different environmental perspectives.

While at the HSES, students take a combination of traditional courses (literature, biology, history, etc.) and targeted environmental courses. The traditional college prep courses have been infused with environmental examples, considerations, and resources. In addition, HSES emphasises applied-learning experiences and hands-on programs that incorporate the rich cultural, economic, and social diversity of New York City. In this

New York's High School for Envir (cont'd)

context, HSES students engage in volunteer service activities such as planting trees to improve soil erosion, teaching recycling to others, building playgrounds, and cleaning beaches.

HSES has also partnered with numerous local and national organizations to provide students with opportunities for internships, scholarships, and jobs. Career days and college partnerships provide support for students as they explore future career opportunities. Teachers, on the other hand, can take advantage of summer programmes and after-school professional development workshops aimed at increasing understanding of current environmental issues and blending these issues into the classroom curriculum. Graduates of HSES often continue to become naturalists, marine science educators, park rangers, and environmental leaders.

For more information, see <http://www.mediaworkshop.org/hses/> and <http://www.nycenet.edu/OurSchools/Region9/M400/default.htm> or contact Ms Bartlett, Executive Director at dragonfly@juno.com

Environmental Education Programmes for Women and Youth

[44] (e) *Organizing campaigns for fostering environmental awareness and environmental educational programmes for women and youth;*

Chapter 24 of the Agenda 21 suggests the responsibilities and roles of the State in integrating women's role in the field of environment and development and recommends the establishment of national organisations to evaluate development, environmental policies and programmes related to women. This responsibility does not rest solely with the State environmental agency, however; NGOs (at national and community levels) have increasingly demonstrated their potential, both independently and in collaboration with governments, to assist in mobilizing and unearthing the full potential of women as major contributors in national environmental management through workshops and training programmes.

Young people comprise nearly 30 percent of the global population and will be the decisionmakers of the future. Their way of thinking about the environment is already shaping the world of tomorrow. The involvement of today's youth in environment and development decisionmaking and in the implementation of programmes has been internationally recognised as critical to sustainable development. [See explanatory notes following Guideline 29.]



[29]

[42(a)]

In addition to the case studies below, additional examples of educating and working with youth can be found following Guideline 42(a) (especially the case study on "Implementing MEAs in the Decentralized Context of Benin").



BAHAMAS: YOUTH EDUCATION TO PROTECT WETLANDS

In the Bahamas, the U.S.-based cable television channel Nickelodeon has worked with the government to involve children in protecting the islands' wetlands and coral reefs. The Big Help is a campaign by Nickelodeon to connect kids to their communities through volunteerism. Big Help projects are hands-on activity in a specific area that give kids an opportunity to devote hours or days to volunteering their time and energy to solving a local, national, or global problem.

Starting in 2001, Nickelodeon teamed up with the Bahamas to educate the public, and particularly the youth, about the underwater environment. This partnership helped to empower youth and communities to reclaim and protect the reefs and wetlands. A colorfully decorated Big Help mobile offered "save the reef" activities at various stops, showing youth how environmental awareness in their hometown affects reefs. Nickelodeon also featured the Bahamas as a partner/sponsor in 10 commercials aired on Nickelodeon promoting the Big Help tour, and Nickelodeon donated computers to

Bahamas: Youth Education to Protect Wetlands (cont'd)

In tandem with the reef activity, the Bahamas developed a local effort focusing on wetlands, drawing connections between the wetlands and the coral reef system. Initially, seven sites (one on each of seven island) were targeted for restoration by schoolchildren. Over the course of several weeks, the schoolchildren on each island helped to restore and preserve wetland areas in their community by:

- physical activities (trash removal, clearances, etc.);
- letter writing campaigns;
- poster design competitions to visually depict their awareness of the importance of preserving wetland areas;
- dramatic and poetic presentations on the restoration and preservation efforts;
- media appearances and interviews to talk about the need for the restoration project and the importance of the community effort to maintain the work;
- sponsorship solicitation of the materials needed for the project (trash bags, gloves, trash bins, etc.); and
- tree-planting exercises.

This effort, which was dubbed the Big Help Bahamas Wetlands Project, encouraged each school to “adopt” an area of the wetland site for planting indigenous trees and shrubs. One of the ten commercials shot in the Bahamas featured a restored wetland, and an entire Nick News segment featured the project.

The wetlands campaign was launched with the Ministers of Tourism, Education, and Agriculture & Fisheries, as well as Nickelodeon. The Government support was important so that the children, their parents, and other adult volunteers could be assured that the project is not being done in isolation, but is a part of a national effort, and which will be able to be maintained with the full support of the Government.

For more information, contact bestnbs@hotmail.com



YOUTH INITIATIVE IN SEYCHELLES FOR THE PROTECTION OF WETLANDS

Seychelles has enlisted youth organizations to help protect wetlands (under the Ramsar Convention) and other habitats for migratory species (under CMS). Much of the country is a fragile ecosystem, however expansion into wetlands, mining beaches for sand, dumping waste, and other land and resource uses have affected many of the sensitive areas that are habitats of rare species of plants and animals, including migratory species. In many instances, environmental laws and regulations exist to protect these habitats, but enforcement is difficult due to limited resources and personnel as well as occasional overlapping or inadequate legislative authority.

The Government has responded with a campaign to build public awareness, focusing on the youth, so that people can better understand the impacts of their actions on these sensitive areas of their country. The Youth Initiative is a strategy for protecting and managing sensitive areas of the Seychelles draws upon Principles 4 and 10 of the Rio Declaration. By this approach, youth organizations at the district level play an active role in working with governmental bodies to protect and manage the environment. The Ministry of Education has the leading role of implementing this policy, with the Ministry of Local Government assisting in logistical matters and the Ministry of Environment and Natural Resources (MENR) providing technical support.

Under the Youth Initiative, youth groups “adopt” sensitive areas. They undertake activities to raise environmental awareness and knowledge of the youth, encourage youth to participate in protecting the country’s fragile ecosystems, and reduce impact of human development on these areas. In particular, youth organizations have adopted sensitive areas (including wetlands, rivers, beaches, and estuaries) in different districts. Once they have adopted a particular area, they participate in its protection and management. They carry out periodic clean-up activities and help to maintain the areas. They conduct inventories of animal, bird, and plant species found in sensitive areas (including a census of migratory birds and count of turtles), and they help to manage this information. They carry out surveillance of protected and migratory species of animals and birds, and they report to the MENR on poachers or other people who conduct activities (such as dumping waste) that could destroy the habitat of the species or otherwise affect the area. The youth organizations provide the biological data and information on environmental violators to the MENR.

In addition to learning, the youth also undertake various activities to educate others about the sensitive areas. They go from house to house raising awareness of people living near the sensitive areas, sharing information; they act as guides for visitors who visit these areas; and they organize educational and recreational activities in these areas to sensitize other young people.

The MENR is responsible for identifying the area to be adopted; developing the management plan for the adopted area (with the involvement of youth), establishing the communication network, managing the information on the adopted area that is

Youth Initiative in Seychelles (cont'd)

generated by the youth organization, collecting information on illegal activities and providing assistance to combat it, and providing technical advice and equipment. Experience thus far has been quite positive. The youth organizations have been successful in helping to enforce the environmental laws and assist in the effective implementation of the Ramsar Convention and CMS.

For more information, contact Mr. Rolph Payet at ps@env.gov.sc



YOUTH EDUCATION – AND ITS EFFECTS ON ADULTS – IN SEYCHELLES

The Wildlife Clubs of Seychelles (WCS) is a youth NGO that was formed in 1994, and it is dedicated to promoting conservation action through environmental education. Today, about 800 children throughout Seychelles belong to wildlife clubs and are members of WCS. WCS is completely run by volunteers; and most of the clubs are led by teachers, as well as some parents and community volunteers, and meet after school, on weekends, and during school holidays. WCS activities provide opportunities for students and their leaders to learn about their environment, to participate in environmental action, and to be a force for positive change.

For more information, see <http://www.nature.org.sc/wcs.htm>

The majority of Seychellois children are now well educated in environmental matters, so that they are starting to sensitize their parents at home, for example on the need to protect green turtles (a CITES-listed species on Appendix I). In traditional Seychellois cuisine, turtle and dolphin curries are delicacies; however, consumption of these delicacies are not only illegal (banned by law) but they are also perceived as immoral by the vast majority of children. On the occasion of Biodiversity Day 2003, the Ministry of Environment rallied a large crowd of people in the capital Victoria demanding to "Save the Turtles."

For more information, see http://www.ioseaturtles.org/profile_monthApr2004.htm or contact Jeanne Mortimer at jmort@nersp.nerdc.ufl.edu



YOUTH AND SUSTAINABLE CONSUMPTION

Sustainable consumption first appeared on the international policy agenda at the United Nations Conference on Environment and Development (UNCED) in Rio de Janeiro, Brazil, in 1992 when the link between environmental degradation and the production and consumption of goods and services was officially made. Recognising the importance that young people play in environmental protection and development, the UNEP Governing Council charged UNEP with developing a strategy to investigate the role of youth in promoting sustainable consumption. Youth comprise nearly 30 percent of the world's population, and the consumption patterns acquired by them today will influence their adult lifestyles and hence future global consumption patterns.

Following a decision by the Governing Council in 1999, UNEP developed a sustainable consumption strategy in collaboration with its Youth Advisory Council. It involved a survey and campaign on Youth and Sustainable Consumption. The UNEP Youth and Sustainable Consumption Campaign, launched in seventeen States in all five continents, aimed to increase the involvement of youth in activities promoting sustainable consumption by educating young people on the impact of their consumption on the environment. The campaign was coordinated by UNEP in conjunction with its Youth Advisory Council. Each Youth Advisory Council group relayed the general message on sustainable consumption, but was free to emphasise that aspect of sustainable lifestyle which was most likely to be adopted in their State (water, energy, food, etc.).

A research survey was also carried out asking young people what they knew about the impact their lifestyles and consumption patterns had on the environment, economy and society. The survey covered 15,000 young people in 25 States. The results have provided a resource base for dialogue with young people on what youth from different cultures and continents really know and need.

UNEP has also produced a Youth for Sustainable Consumption Handbook and video (see http://www.unep.org/children_youth/ysc/), launched in February 2001, during the twenty-first UNEP Governing Council. The handbook aims to provide youth with a better understanding of how consumption patterns affect the environment and why we should aim towards sustainable consumption.

UNEP's Global Pilot Seminar for Women on Renewable Energy

An example of female empowerment in the field of natural resources management comes from the global pilot seminar on Women Leaders on the Uptake of Renewable Energy Technology, held in Perth, Australia, in June 2001. Supported by the Swedish government, the seminar was the first event of a UNEP awareness and education programme for women leaders on adopting renewable energy technologies. It involved 30 participants from 22 developing countries in Latin America, Africa, Asia, and the Pacific.

Youth and Sustainable Consumption (cont'd)

The seminar sought to:

- Train participants to advocate for the political support and resources to promote integrated and holistic energy policies that take into account women's needs.
- Educate participants on sustainable energy issues and concerns relevant to women's needs so that they can share this knowledge with others.
- Provide technical education to increase women's access to environmentally friendly energy technologies.
- Promote women's collaboration with energy-focused and other organizations in improving access to sustainable energy for both women and men.
- Encourage women to participate in energy policy and planning discussions and to maximize their role as stakeholders.

UNEP's Global Youth Retreat

UNEP convenes the Global Youth Retreat every two years in conjunction with the regular sessions of the UNEP Governing Council/Global Ministerial Environment Forum. The Retreat provides youth leaders with an opportunity to discuss youth input into UNEP work and to suggest ways of enhancing cooperation between UNEP and young people worldwide. It also provides training opportunities for youth and it is used to elect members of the UNEP Youth Advisory Council – twelve young people who advise UNEP on how to include youth in its activities. Young people also participate as observers in the UNEP Governing Council. They interact and share experiences with decision-makers, and are able to lobby on youth-related issues.

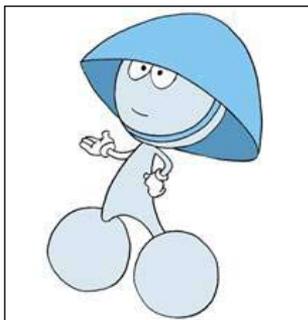
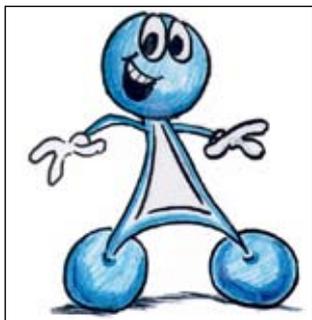


OZZY OZONE, AN OZONE MASCOT FOR BARBADOS (AND BEYOND)

In 1997, Barbados sought to improve public awareness to protect the ozone layer. It commissioned a printed cartoon series from a local graphic artist. Under the agreement with the artist, the Government of Barbados holds the ownership and rights of the cartoon character, Ozzy Ozone. This cartoon character served as a "mascot" and was very effective in raising awareness in Barbados. The cartoon series has been printed in the local newspapers on several occasions. Additionally, promotional items produced for local public awareness and education campaigns using the Ozzy graphic include posters, key rings, rulers, erasers, refrigerator magnets, mouse pads, pens, pencils, stickers, and envelopes. These public awareness items were distributed at numerous and varied forums, including school lectures and outdoor activities, Green Expos, career showcases, and public displays. In 2000, Barbados registered the graphic as a trademark, under the Trade Mark Act Cap 319.

Ozzy Ozone, an Ozone Mascot for Barbados (and Beyond) (cont'd)

Ozzy was so successful that UNEP sought to use Ozzy globally in its ozone awareness activities. UNEP learned of the Ozzy mascot in a report by the National Ozone Unit, which summarised the 1999 Ozone Day activities. Under an agreement with Barbados, the OzonAction Programme of UNEP/DTIE uses Ozzy in awareness and education materials that are produced for global distribution. As an Ozone mascot, Ozzy has proven to be an effective public awareness tool, particularly for raising awareness among children. The original and modified versions of Ozzy Ozone are shown below.



In 2004, UNEP released an animated awareness video in which Ozzy explains the threats to the ozone layer and shows children how they can protect themselves from the effects of ultraviolet radiation caused by ozone depletion. On Ozone Day (September 16), more than 64 governments broadcast the video on their national television channels, reaching millions of viewers. The film is available from UNEP in English, French, and Spanish, and it subsequently has been translated into 22 national languages by various governments. Several airlines included the video for in-flight entertainment. The video uses key messages and concepts identified in the Communication Strategy for Global Compliance with the Montreal Protocol, which was developed by UNEP to link public awareness to national obligations under the Protocol.

In 2005, Ozzy was busy flying around the world spreading the message on ozone layer protection. Therefore, UNEP further developed an awareness package featuring Ozzy Ozone, which includes a new cartoon "Ozzy Ozone, Defender of Our Planet," three public service announcements for television, two radio spots, and a website (<http://www.ozzyozone.org>). An OzonAction Education pack including teacher's guide for primary schools will be launched in 2006.

For more information, contact Ms. Karen Smith smithka@gob.bb in the Ministry of Housing, Lands and the Environment of Barbados; the UNEP/DTIE OzonAction Programme ozonaction@unep.fr; or Mr. Eric Falt eric.falt@unep.org



BARANGAY YOUTH COUNCIL IN THE PHILIPPINES

Barangay Youth Council is the governing body of the Youth Assembly that is organized in every barangay, which is the smallest unit of local government in the Philippines. Its primary objective is to enhance the development of the youth in the country. The Council promulgates resolutions necessary to carry out the objectives of the youth. Among the activities initiated by Councils around the country are tree planting, clean-up drives for rivers and lakes, waste segregation, and the like. Involvement in these activities has helped promote environment consciousness among the youth in the Philippines.

For more information, contact Ms. Meriden Maranan at planning@pawb.gov.ph



YOUTH ENVIRONMENT GROUPS IN BENIN

The disastrous consequences of desertification often oblige young people living in affected areas to leave, depopulating the communities and affecting the productivity of the communities. Many of the pressures on natural resources in Benin (and other countries) come from activities of young people, including wild fires and poaching.

To address the challenges that young people face – and the ones that they generate – Benin initiated a pilot project to establish youth environment groups, with financial support from Venezuela. At first, the project focused on villages in the districts of Djidja and Ouaké. The main objective of the project is to improve conservation of natural resources by environmentally appropriate practices that also advance development goals (i.e., generate jobs and money).

The project targeted 15 villages that were suffering from desertification: 10 villages in Djidja and 5 in Ouaké. Accordingly, in 2004, 15 youth environment groups were established, one in each village. The membership in the groups included youths between the ages of 15 and 25 years, with an initial total of 165 young people in Djidja and 134 young people in Ouaké.

Before starting the activities, a participatory diagnostic was conducted in the villages. Through this diagnostic, the young people were asked to identify the problems and potential solutions. Then a participatory economic planning process enabled each group to plan their activities. In view of strategic activities, a series of trainings was organized. The primary activities included: fighting wild fires, nursery, reforestation, beekeeping, breeding of porcupines (*Swinderianus thryonomys*), fighting erosion, and mushroom production.

There are short-, medium-, and long-term benefits of establishing these youth environment groups. In the short run, young people have benefited from training

Youth Environment Groups in Benin (cont'd)

in techniques relating to nursery, beekeeping, and breeding of porcupines. These trainings will allow them to be self-employed with diversified incomes. In addition, the project has raised environmental awareness, and this is expected to help with the long-term environmental protection and sustainable management of natural resources.

The training also helps young people to solve problems that they face. By fighting desertification, they are able to generate household incomes. In addition, the breeding of porcupines fights poaching, because the porcupines can satisfy the need for meat reducing the pressures on wild game.

For more information, see <http://www.mehubenin.net> and <https://bch-cbd.naturalsciences.be/benin/> or contact cbbes_ong2002@yahoo.fr



Additional Resource On Environmental Education For Youth

Global Learning and Observations to Benefit the Environment (GLOBE) Web site: <http://www.globe.gov> (a global programme to provide hands-on environmental education to primary and secondary school students)

Global Rivers Environmental Education Network (GREEN) Web site: <http://www.green.org> (helping youth to monitor water quality and solve environmental problems in their communities)

Educational Campaigns for Public Involvement in Compliance Monitoring

- [44]** (f) *Organizing campaigns for encouraging public involvement in monitoring of compliance.*

An educated public can be one of the most powerful weapons in the world's battle against harm to the environment. The ways that the public can assist in enforcement efforts are as numerous as the potential approaches for increasing public awareness. In addition to



[41(K)]

the examples below, case studies of public participation in monitoring and enforcement, following Guideline 41(k), often involve an element of awareness raising and education.



ENVIRONMENTAL EDUCATION INITIATIVES: THE INDIA CENTER FOR ENVIRONMENTAL EDUCATION AND ILLEGAL POACHING

In India, NGOs have played a key role in producing print and audio-visual materials for non-formal environmental education in schools and other institutions of learning. For instance, the Center for Environmental Education has produced a wide range of books and audio-visual packages for the benefit of teachers and students. They have also produced television programmes that have been successful in raising environmental awareness at all levels and drawing attention to the illegal poaching of tigers, rhinoceros, and other endangered species.

Public Information and the Cyanide Spill in Romania

A public information brochure was prepared and disseminated in local languages on the cyanide spill in February 2000 in Baia Mare, Romania. Dissemination of the brochure has resulted in increased awareness and public scrutiny of industrial environmental management in the region.

E. International Cooperation and Coordination in Enforcement Efforts

[45] *Consistent with relevant provisions in multilateral environmental agreements, national enforcement of laws and regulations implementing multilateral environmental agreements could be supported through international cooperation and coordination that can be facilitated by, inter alia, UNEP. The following considerations could be kept in view.*

Enforcement of laws implementing MEAs can pose a difficult challenge for many States. Opportunities for cooperation and coordination, although many, need to be increased to improve the capacity and capability of all States to implement their laws and achieve compliance with MEAs. As with compliance-related issues, national enforcement plans, initiatives and actions can greatly benefit from cooperative efforts, whether at the bilateral, regional or global level. This is because, in spite of the national nature of many enforcement efforts, there are countless ways in which States seeking to implement and enforce the terms of an MEA can learn from one another and support one another's efforts. Areas such as consistency in laws and regulations, improved judicial coordination, strengthened institutional frameworks and capacity building all deserve special attention in this regard.

CHECKLIST FOR DEVELOPING PROJECTS TO FACILITATE INTERNATIONAL COOPERATION IN ENFORCEMENT

Many of the initiatives set forth in Guidelines 45-49 may involve securing funding for capacity building, pilot projects, and other activities to strengthen international coordination and cooperation in implementing MEAs. In pursuing such activities, States may:

- Develop and retain staff with the necessary expertise in developing and managing project proposals.
- Identify potential projects that are replicable, since such projects often receive preferential funding. Replicable projects are those that can serve as a model for other nations or regions.
- Ensure that the projects respond to local priorities, and not simply priorities that are set by external bodies. Ideally, the projects will reflect priorities of both the donors and the recipients, even if those priorities are not necessarily the same.
- Identify alternative and complementary sources of funding, which may include funding from the MEA Secretariat, multilateral institutions (such as the World Bank, UNDP, and GEF), and bilateral donors.
- Ensure that the project utilises and strengthens local capacity and institutions.
- Consider working with regional institutions that provide established forums for collaboration and can provide a regional mechanism for exchanging experiences and an "institutional memory."
- If the project is (or should be) part of a long-term initiative, consider how to maintain the project can be sustained over the long term.
- Maintain complete records of the project within the territory of the State.
- Foster close coordination between the focal point of the activity and the nation technical and political focal points.
- Apprise the MEA Secretariat of the project, particularly to the extent it improves the State's compliance with the MEA.

This Checklist builds upon a similar checklist in the 1999 CARICOM Guidelines for MEA Implementation.

Consistency in Laws and Regulations

- [46]** *States, within their national jurisdictions, can consider developing consistent definitions and actions such as penalties and court orders, with a view to promoting a common approach to environmental law violations and environmental crimes, and enhance international cooperation and coordination, for environmental crimes with transboundary aspects. This may be facilitated by:*
- (a) Environmental laws and regulations that provide appropriate deterrent measures, including penalties, environmental restitution and procedures for confiscation of equipment, goods and contraband, and for disposal of confiscated materials;*
 - (b) Adoption of laws and regulations, implemented and applied in a manner that is consistent with the enacting state's international obligations, that make illegal the importation, trafficking or acquisition of goods, wastes and any other materials in violation of the environmental law and regulations;*
 - (c) Appropriate authority to make environmental crime punishable by criminal sanctions that take into account the nature of the environmental law violation.*

Consistency in laws and regulations implementing an MEA, including the provisions therein that provide for penalties and sanctions, are much more effective if they are developed and applied in a consistent manner. Environmental crimes with transboundary aspects (such as the illegal movement across borders of restricted substances) are more likely to be deterred if the relevant laws contain consistent terms and if violations have clear and consistent consequences (such as confiscation of contraband and the application of civil and criminal penalties). States can work together, either independently or through an international organisation such as UNEP, to ensure that a consistent and effective approach is taken in the development and application of laws prohibiting and providing penalties for environmental violations.

For example, if two States are Parties to CITES and an individual in one of these States illegally exports an animal protected by the Convention to the other State without appropriate documentation, this unlawful action can best be prosecuted when there are consistent laws in both States. If the laws implementing CITES in both States contain consistent definitions of the relevant terms (such as “specimen” and “trade”) and similar document issuance or acceptance procedures, then prosecution efforts will be bolstered by a clear-cut case. In the same vein, vagueness or inconsistency in the laws of the importing or exporting States will hinder efforts to prosecute this violation, which in turn can lead to more violations as loopholes in the laws are perceived by those who seek to profit by violating CITES.

There are a number of ways in which foster improved international collaboration to fight environmental crime or violation of national environmental laws with transboundary implications:

- Environmental laws and regulations must feature adequate and appropriate deterrent measures — correct penalties relevant to the gravity of the offence; environmental restitution and clearly defined procedures for confiscation of equipment, goods and contraband and/or disposal of confiscated material, connected with the environmental crime.
- National laws and regulations implementing an MEA, must be implemented and applied in a way that is consistent with the enacting State's international obligations under the relevant MEA which makes illegal the importation, trafficking or acquisition of goods, wastes and any other materials.
- Appropriate authority to make environmental crime punishable by criminal sanctions that take into account the nature of environmental law violation.

Criminal Sanctions for Violations of Environmental Law

The use of criminal sanctions as a deterrent against some of the more serious forms of environmental crime has gained widespread acceptance and has been central to getting more serious resources assigned to tackling environmental crime by law enforcement organisations.

The latter point is important. Penalties not only determine the deterrent effect of legislation but also serve to specify the seriousness with which offences are pursued by enforcement agencies.

Waste dumping especially with “knowing endangerment” — endangering the health of others by knowingly violating environmental laws — tends to command the most serious penalties of between ten and fifteen years in jail. Poaching charismatic animals also routinely attracts criminal penalties as severe as ten years in jail in some range states, although wild life trafficking outside range states tends to be treated more leniently.

Where there are difficulties with pursuing criminal prosecutions — for example, it may be difficult to prove intent to violate laws or to acquire evidence of guilt to the criminal standards of “beyond reasonable doubt” — strict liability procedures may prove more effective. These sanction a company or individual for failure to exercise due diligence and operate irrespective of fault or intention. (Source: Gavin Hayman & Duncan Brack, *International Environmental Crime: The Nature and Control of Environmental Black Markets – Workshop Report* (RIIA 2002), available at http://europa.eu.int/comm/environment/crime/env_crime_workshop.pdf)

Criminalizing the Importation and Trafficking of Products in Violation of Other States' Environmental Laws

States may bolster consistency in law enforcement across borders and more effectively address transnational environmental crime and illegal trade by creating domestic laws that render illegal the importation, trafficking, or acquisition of goods, wastes, and other materials in violation of other States' environmental laws. In other words, a State may render domestic trade in a product illegal if that product were taken in violation of another State's laws.

For example, in the United States, the Lacey Act makes it unlawful to import, export, transport, sell, receive, acquire, or purchase any fish or wildlife already taken, possessed, transported, or sold in violation of any wildlife-related state, federal, tribal, or foreign laws or regulations. 16 U.S.C. sec. 3372(a). Lacey Act violations can be misdemeanors or felonies, depending on a number of factors, including the defendant's knowledge of the underlying legal violations. The Lacey Act serves as a powerful tool for the United States to address illegal trade in fish and wildlife, because it authorizes enforcement in the United States for violations of foreign laws when those goods enter the United States. Of course, to successfully enforce such laws, significant cooperation is needed from the State where the underlying violation is alleged to have occurred, including certification of foreign law and other types of legal assistance.

In addition to the case studies below, additional discussion and examples relating to judicial matters may be found following Guidelines 32, 41(a)(v), 41(c)(vi), 41(i), 41(o), 43(c), 43(d), and 47.



[32]

[41(a)(v)]

[41(c)(vi)]

[41(i)]

[41(o)]

[43(c)]

[43(d)]

[47]



THE NORTH AMERICAN AGREEMENT ON ENVIRONMENTAL COOPERATION (NAAEC)

The North American Agreement on Environmental Cooperation (NAAEC), which was negotiated and is being implemented in parallel to the North American Free Trade Agreement (NAFTA) provides a good example of a regional effort to promote environmental law and enforcement. NAAEC requires that each Party (i.e. Canada, United States, and Mexico) ensures that its laws provide for high levels of environmental protection. Each Party agreed to effectively enforce its environmental laws through appropriate means, such as the appointment and training of inspectors, monitoring compliance, and pursuing the necessary legal means to seek appropriate remedies for violations. The Commission for Environmental Cooperation (CEC) created under the NAAEC is authorized to develop joint recommendations on approaches to environmental compliance and enforcement. The tendency therefore is that the Parties will endeavour together to foster effective environmental enforcement within the region. Each Party must also provide periodic reports on the state of its environment, develop environmental emergency preparedness measures, promote environmental education, further research and development, assess (as appropriate) environmental impacts, and promote the use of economic instruments. The CEC was created by NAAEC to enhance regional environmental cooperation, reduce potential trade and environmental conflicts, and promote the effective enforcement of environmental law.

For more information, see <http://www.cec.org> (in English, French, and Spanish) or contact info@cec.org



THE EUROPEAN COMMISSION ENVIRONMENT DIRECTORATE-GENERAL

The Environment DG is one of the 36 Directorates-General (DGs) and specialised services which make up the European Commission. Its main role is to initiate and define new environmental legislation and to ensure that measures, which have been agreed, are actually put into practice in Member States. The resulting uniformity in the approach to environmental violations by EU States greatly enhances the effectiveness of enforcement efforts in crimes with transboundary aspects.

For more information, see http://europa.eu.int/comm/dgs/environment/index_en.htm



EXCHANGE OF INFORMATION AND EXPERIENCES IN DEVELOPING ENVIRONMENTAL LAWS IN MACEDONIA

In developing environmental laws, Macedonia has drawn upon a number of technical resources. For example, Macedonia has consulted and sought comments from Croatia and Bulgaria regarding draft laws on various aspects of environmental protection. This was done in the context bilateral cooperation with Croatia and Bulgaria. The bilateral agreements signed by Macedonia with these States provides for cooperation in the field of environmental legislation through the exchange of information. Under these agreements, the Parties established joint committees for cooperation in the field of the environmental protection. During the course of the regular meetings of the joint committees, the States discuss ongoing processes to develop national environmental legislation, and they exchange information and experiences to improve the draft text of the legislation.

For more information, contact Ms. Daniela Stefkova at D.Stefkova@moepp.gov.mk



REGULATORY ENVIRONMENTAL PROGRAMME IMPLEMENTATION NETWORK (REPIN) IN THE EECCA REGION

OECD's Regulatory Environmental Programme Implementation Network (REPIN) assists countries in the Eastern Europe, Caucasus and Central Asia (EECCA) region in promoting and implementing environmentally effective, economically efficient environmental policies and regulations. REPIN's work programme focuses on assisting individual countries to (1) strengthen environmental policy instruments; (2) strengthen environmental enforcement instruments and strategies; and (3) improve performance of environmental enforcement agencies. Emphasis is placed on environmental issues related to industrial enterprises and publicly supported infrastructure.

In assisting countries to reform environmental laws and regulations, REPIN is supporting EECCA countries as they seek to have their laws and institutions converge with those set forth in EU environmental Directives. This is not quite a full approximation with the *acquis communautaire*, but a series of steps in that direction: the process uses the principles, procedures, and key features of EU environmental Directives as references for reviewing and reforming environmental policies and practices in EECCA countries.

For more information, contact angela.bularga@oecd.org, eugene.mazur@oecd.org, or krzysztof.michalak@oecd.org



HARMONISATION OF ENVIRONMENTAL LAWS IN CENTRAL AMERICA

In 1989, the Presidents of Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua established the Central American Commission on Environment and Development (Comisión Centroamericano de Ambiente y Desarrollo, or CCAD) as an intergovernmental regional institution. CCAD's initial mandate was to develop regional harmonised environmental management systems, build capacity, enhance coordination among environmental officials, harmonise environmental laws, and strengthen national environmental authorities.

In this context, CCAD has assisted its current seven Member States (now also including Belize and Panama) to develop environmental laws. CCAD worked with States to develop various environmental laws and prepared four regional treaties on biodiversity, climate change, forestry, and regulation of the movement of hazardous waste. CCAD also prepared regional guidelines on CITES, Living Modified Organisms (LMOs), and Protected Areas.

Currently, CCAD works through regional Technical Committees with the participation of the Member States. These Technical Committees seek to promote the effective compliance, implementation, and enforcement of certain MEAs, including UNFCCC, CBD, Ramsar, Basel, etc.

CCAD provides technical support in the legislative process through its repository of Central American environmental laws and its network of regional experts. CCAD also helped to create a Regional Commission of Parliamentarians on the Environment, as well as the Mesoamerican Environmental Information System (SIAM) with national nodes and a regional node in Panama.

This exchange of information and experiences has facilitated an upward harmonisation of environmental laws in the region. While the environmental laws are not harmonised per se, they now share many common approaches.

CCAD has also helped States in the region to develop joint environmental information systems, craft common strategies to address shared problems, and design and implement joint environmental projects.

For more information, see <http://www.ccad.ws/> (in Spanish) or contact Mr. Marco Gonzalez at mgonzalez@ccad.ws.

For more information on SIAM, see <http://servir.nsstc.nasa.gov/about.html>



SUB-REGIONAL INITIATIVES TO IMPROVE PESTICIDE MANAGEMENT IN WEST AFRICA

In West Africa, a variety of sub-regional and bilateral initiatives are building capacity of countries and institutions to effectively manage pesticides, particularly the illegal transport of banned pesticides.

Under the umbrella of the Committee on Drought Control in the Sahel (known by its French acronym CILSS) a Common Regulation for Pesticide Registration in the CILSS Member States was established. [Established in 1973, CILSS includes nine Member States: Burkina Faso, Cape Verde, Chad, Guinea Bissau, The Gambia, Mali, Mauritania, Niger, and Senegal.] These regulations provide for the registration

of all pesticides entering the Sahel region to be performed by a central committee of experts, called the Sahelian Pesticide Committee. Harmonised tests and field trials have been established, and regional laboratories for conducting various analyses relating to pesticides are being identified. The mandate of the Committee includes a review of notifications under the PIC Procedure and to advise Member States.

For more information, see <http://www.cilssnet.org/> or contact Amadou Diarra at csp@agrosoc.insah.org

In a separate initiative, the FAO is supporting an ongoing project to harmonise national legislation on pesticide management in the nine CILSS countries.

For more information on this project, contact Mrs. Fatoumata Jallow Ndoye at fjndoye@qanet.gm

Finally, the Joint Senegalo-Gambia Initiative on Pesticide and Pest Control provides a framework by which Senegal and The Gambia will jointly monitor their common borders for illegal entry of banned pesticides. This initiative also provides that Senegal will perform residue analyses on pesticides, for the two countries, while The Gambia will do formulation analyses.

For more information on this initiative, contact Mr. Amadou Diarra, at csp@agrosoc.insah.org



FAO/10411/E Mattioli

Pesticide use in West Africa.

Cooperation in Judicial Proceedings

[47] *Cooperation between and amongst states in judicial proceedings may be facilitated by:*

- (a) Cooperation in judicial proceedings and procedures related to testimony, evidence and similar matters, including exchange of information, mutual legal assistance and other co-operative arrangements agreed between the concerned countries;*
- (b) Developing appropriate channels of communication with due respect for the various systems in place in different states, for timely exchange of information relevant to the detection of environmental law violations as well as pertaining to the judicial process.*

Judges and judicial institutions stand in a unique position in the fight against environmental degradation. As the branch of government charged with interpreting and implementing laws, the judiciary is empowered to ensure that both the spirit and the letter of environmental laws are complied with. Because environmental violations very often have transboundary aspects, however, judicial proceedings addressing such violations will also have international aspects and will benefit from cooperation between the relevant judges. Moreover, given the rapid development of environmental laws, however, judges are challenged to keep abreast of developments in this field. By working together, the world's judges can improve their abilities in this regard.

On the eve of the 2002 World Summit on Sustainable Development (WSSD), UNEP brought together the largest gathering of the world's Chief Justices ever convened at a Global Judges Symposium. At this Symposium, the judges affirmed their commitment to combating environmental degradation through the application of environmental law. In the "Johannesburg Principles," adopted at the Symposium, the world's judges called for improved environmental education, including for the judiciary. Since then, UNEP has been facilitating regional judges training workshops, designed to improve the judiciary's knowledge and understanding of environmental law.

In addition to the case studies below, additional discussion and examples relating to judicial matters may be found following Guidelines 32, 41(a)(v), 41(c)(vi), 41(i), 41(o), 43(c), 43(d), and 46.



[32]

[41(a)(v)]

[41(c)(vi)]

[41(i)]

[41(o)]

[43(c)]

[43(d)]

[46]

Cooperation in Judicial Proceedings and Procedures

- [47]** (a) *Cooperation in judicial proceedings and procedures related to testimony, evidence and similar matters, including exchange of information, mutual legal assistance and other co-operative arrangements agreed between the concerned countries;*

Cooperation in judicial proceeding is of particular importance for the enforcement of international environmental law that is transboundary in nature. Examples of transboundary environmental issues are frequently trade-related matters such as the illegal trade in endangered species and ozone depleting substances. Air pollution that transcends national boundaries and issues related to shared water bodies are also examples of this transboundary environmental issues. Enforcement of international environmental law related to these issues is more effective when States can cooperate in judicial proceedings and other legal and administrative procedures. While the European Union is unique in its structure and social, economic and legal cohesiveness, the case study provides good examples of measures that European States have taken to enhance judicial cooperation.

States can develop both informal contacts and formal legal procedures to assist in the detection and prosecution of environmental violations. Informal contacts can enable enforcement officials to make real-time contacts and communicate in a timely and effective manner (e.g., to pass on a lead by phone or e-mail). Formal arrangements include negotiating extradition treaties and mutual legal assistance treaties which specifically include environmental violations.

For additional information on cooperation in judicial aspects, see Guideline 41(a)(v) and accompanying text.



[41(a)(v)]



THE EUROPEAN UNION (EU) AND JUDICIAL COOPERATION

A stated objective of the EU is “to provide citizens with a high level of safety within an area of freedom, security and justice” and the EU calls on the Member States to develop common action, particularly in the field of police and judicial cooperation. The Vienna Action Plan adopted by the Council of the European Union at the end of 1998 drew up a five-year timetable for the implementation of the measures needed to create this area of freedom, security and justice. The current work programme for judicial cooperation in criminal matters:

1. Approximation of criminal law
2. Coordination of judicial proceedings
3. Mutual recognition of judicial decisions
4. Protection of individual rights

The Treaty of Nice, signed on 26 February 2001, enshrined the creation of Eurojust. In this context, judicial cooperation in criminal matters affects the following areas:

Approximation of Criminal Law. Substantive criminal law: A common Union policy in criminal matters must be gradually introduced in view of the cross-border nature of crime (fraud, counterfeiting, corruption, trafficking in human beings, racism and xenophobia, computer crime, environmental crime, terrorism, drug smuggling, etc), as judicial cooperation may be compromised if there are conflicting definitions of criminal behaviour.

Procedural Law in Criminal Matters. This second strand covers aspects of rights of defense, rights of victims in criminal cases (the Council adopted a framework decision on this subject on 15 March 2001), the use of new technology in judicial matters, information on judicial procedures. This is both a response to the demand for better access to justice and a boost to mutual recognition and increased coordination between judicial authorities.

Coordination of Judicial Proceedings and Eurojust. There is a tendency, in criminal matters, to duplicate the jurisdiction of courts in orders to ensure that criminals will be prosecuted. Furthermore, the principle of territoriality is not necessarily sufficient to identify a single authority with jurisdiction in cases such as environmental crime. The Commission is therefore defining criteria for jurisdiction in criminal matters.

Developing Channels of Communication Relevant to the Judicial Process

- [47]** (b) *Developing appropriate channels of communication with due respect for the various systems in place in different states, for timely exchange of information relevant to the detection of environmental law violations as well as pertaining to the judicial process.*

Channels of communication can allow for informal contacts among national enforcement officials, rather than through cumbersome formal diplomatic routes that might otherwise be required. Such informal channels of communication are critical in ensuring that the State's relevant contacts can participate effectively in enforcement-related networks and are able and willing to share information in an informal, real-time basis, consistent with their laws, as well as through more formal means.

Developing appropriate channels of communication is the first step to encouraging officials to pick up the phone, e-mail, or otherwise contact their counterpart in another State when they have information that may help initiate or bolster an enforcement action, as long as that contact is consistent with domestic law. INECE and Interpol have facilitated the development of such networks at the regional and global levels.

Networks for judicial communication, such as the European Judicial Network example provided below, also can play an important role in information sharing between States that are working on the same environmental crime and other legal issues. In addition, UNEP's Judges Programme and the UNEP/IUCN Judicial Portal — discussed in a case study following Guideline 41(a)(v) — provide opportunities for judges to exchange experiences.



[41(a)(v)]



THE EUROPEAN JUDICIAL NETWORK

Founded in June 1998, the role of the European Judicial Network is to facilitate proper contact between judicial authorities for international cooperation. The network consists of national contact points, assisted by regional contact points in countries whose territory is large enough to warrant it. The network members meet on a regular basis; they are active intermediaries who facilitate cooperation between Member States. They provide legal practitioners in their own and other countries with legal and practical information regarding mutual assistance and generally promote the coordination of judicial cooperation between Member States. The network has developed a website that collates all the relevant legal instruments in the European

The European Judicial Network (cont'd)

Union for dissemination among practitioners. It has also produced an atlas which, when complete, should make it possible for a national judicial authority to identify the corresponding authority with territorial jurisdiction anywhere in the European Union.

For more information, see

http://europa.eu.int/comm/justice_home/ejn/index_en.htm

International Cooperation in Institutional Frameworks

[48]

States can consider the strengthening of institutional frameworks and programmes to facilitate international cooperation and coordination in the following ways:

- (a) Designation and establishment of channels of communication and information exchange among UNEP, the secretariats of multilateral environmental agreements, the World Customs Organization and relevant intergovernmental entities, research institutes and non-governmental organizations, and international law enforcement agencies such as the International Criminal Police Organization (Interpol) especially through its “Green Interpol” activities;*
- (b) Strengthening measures to facilitate information exchange, mutual legal assistance and joint investigations with other enforcement entities with the objective of strengthening and promoting greater consistency in laws and practices;*
- (c) Development of infrastructure needed to control borders and protect against illegal trade under multilateral environmental agreements, including tracking and information systems, customs codes and related arrangements, as well as measures that could help lead to identification of illegal shipments and prosecution of offenders;*
- (d) Development of technology and expertise to track suspect shipments, accompanied by information on specific production sources, the import and export of regulated chemicals and wastes, licensing systems, customs and enforcement data;*
- (e) Strengthening mechanisms to facilitate information exchange regarding verification of illegal shipments and coordinating procedures for storing, processing and returning or destroying confiscated illegal shipments, as well as development of confidential channels, subject to domestic laws, for communicating information regarding illegal shipments;*
- (f) Designation of appropriate national and international points of contact to be forwarded to the UNEP enforcement database;*
- (g) Facilitation of transborder communications between agencies, considering that States may designate responsibility on the same subject to different agencies, such as customs, police or wildlife officials;*
- (h) Establishment of regional and subregional programmes providing opportunities for sharing information and strengthening training for detecting and prosecuting environmental crimes;*
- (i) Allocation of adequate resources to support the effective enforcement and effective implementation of policies.*

Adequate, effective, and efficient institutional frameworks are vital for the enforcement of national environment laws. Whether activities involving plants, animals, chemicals substances, toxic wastes, are prohibited or controlled on paper (i.e., in the national statute books), the written laws are of limited effect without the institutional and material means necessary to enforce them. This is applicable both to developing and developed countries, and both developed and developing countries can strengthen and improve their frameworks through international cooperation.



THE LUSAKA AGREEMENT

The realization of the challenges facing their respective individual national efforts in enforcement and compliance efforts has led a number of States to take collective action in developing institutional frameworks. A good example of this is the 1994 Lusaka Agreement on Cooperative Enforcement Operations Directed at Illegal Trade in Wild Fauna and Flora (Lusaka Agreement) which was adopted as the result of a number of African countries teaming up to combat the illegal trade in some African protected species by international organized environmental crime syndicates.

The high point of this cooperative accord is the establishment of a tripartite multinational institutional framework made up of:

- (i) the Governing Council;
- (ii) a Task Force; and
- (iii) National Bureaux.

The Task Force comprises Field officers (law enforcement officers recommended from the Member States) in the main thrust of this unique multinational institutional framework, with Headquarters at the Kenya Wildlife Service in Nairobi. Its functions include:

- to facilitate cooperative activities among the National Bureaux in carrying out investigations pertaining to illegal trade;
- to investigate violations of national laws pertaining to illegal trade, at the request of the National Bureau or with the consent of the Parties concerned, and to present to them evidence gathered during such investigations;
- to collect, process and disseminate information on activities that pertain to illegal trade, including establishing and maintaining databases;
- to provide upon request of the Parties concerned, available information related to the return to the State of re-export, of confiscated wild fauna and flora; and
- to perform such other function as may be determined by the Governing Council.

For more information, see <http://www.lusakaagreement.org> or contact Mr. Emily S. Kisamo at Skisamo@lusakaagreement.org

Kenneth J. Markowitz, Earthpace LLC



Elephant in Kenya.



BENIN'S EXPERIENCE WITH INTERNATIONAL COOPERATION IN MANAGING PROTECTED AREAS

Benin, Burkina Faso, and Niger host a shared ecosystem, which is also home to various national parks. Recognising the benefits of coordinated management of their shared ecosystem, the three States developed a regional programme for participatory management of three parks in the shared ecosystem: W, Arly, and Pendjari. With its experience with Villagers' Associations for Management of Wildlife Reserves (known by its acronym in French, AVIGREF), Benin plays an important role in this programme. With funding from the European Union, this program has yielded encouraging results to date, and the next phase will expand the park complex to Togo's Oti National Park. Henceforth, one will speak about the WARPO (W, Arly, Pendjari, Oti) park complex.

The community-based participatory management approach of the AVIGREFs (see the case study on "Implementing MEAs in the Decentralized Context of Benin" following Guideline 42(b)) will be generalised at the level of the bordering parks of these four States. So, communities around the parks in these States will participate in surveillance, management, and use of the parks. A portion (30 percent) of the proceeds from the parks goes to the local communities around the parks in the respective States.



[42(b)]

Experience has shown that management of shared ecosystems that are organised on the scale of the ecosystem can yield better conservation of resources. It also fosters a climate of peace and collaboration among the communities in the different States. Finally, it can be more effective in fighting poaching. Such international cooperation is also important since the wildlife crosses the park and national boundaries regularly.

*For more information, see <http://www.cenagref.firstnet.bj>
or contact cenagref@firstnet.bj*

Channels of Communication among Enforcement Bodies

- [48]** (a) *Designation and establishment of channels of communication and information exchange among UNEP, the secretariats of multilateral environmental agreements, the World Customs Organization and relevant intergovernmental entities, research institutes and non-governmental organizations, and international law enforcement agencies such as the International Criminal Police Organization (Interpol) especially through its “Green Interpol” activities;*

One means of facilitating international cooperation and coordination in “environmental law enforcement circuit”, is the designation and establishment of channels of communication and information exchange among relevant bodies. Such bodies can include UNEP, the Secretariats of MEAs, the World Customs Organisation and relevant international entities, research institutes and NGOs and the international law enforcement agencies such as the International Criminal Police Organisation (Interpol), through its “Green Interpol” activities.

Avenues for such proposed collaborative/interactive intelligence-gathering and information exchange are currently being provided by UNEP (which coordinates the activities of several MEAs), and other transnational enforcement facilitation networks such as UNEP-WCMC, International Network for Environmental Compliance and Enforcement (INECE), the Customs Enforcement Network (CEN) of the World Customs Organisation, the European Network on the Implementation and Enforcement of Environmental Law (IMPEL), and similar regional networks.



[33(f)]
[34(c)]

More information on these networks is available in the discussion of Guideline 34(c). Guideline 33(f) also includes a case study on the Green Customs Initiative, in which the WCO and Interpol are partners.

Information Exchange and Joint Investigation

- [48]** (b) *Strengthening measures to facilitate information exchange, mutual legal assistance and joint investigations with other enforcement entities with the objective of strengthening and promoting greater consistency in laws and practices;*
- (c) *Development of infrastructure needed to control borders and protect against illegal trade under multilateral environmental agreements, including tracking and information systems, customs codes and related arrangements, as well as measures that could help lead to identification of illegal shipments and prosecution of offenders;*

Some actions to improve national institutional frameworks include strengthened measures to facilitate information exchange, mutual legal assistance and joint investigation with other enforcement agencies; and the development of infrastructure needed to control borders and protect against illegal trade under MEAs, including tracking and information systems, customs codes and related arrangements with a view to:

- (a) strengthening and promoting greater consistency in laws and practices; and
- (b) providing easy identification of illegal identification of illegal shipment and prosecution of offenders.

For instance, Europol (the European Union law enforcement organisation), aims at improving the effectiveness and cooperation between the competent authorities of the Member States in preventing and combating serious international organised crime. One aspect of its mandate that bears direct relevance to environmental crime is “trafficking of radioactive and nuclear substances”. The mandate however “may be extended in the future to cover other forms of serious international crime”. Nonetheless, through its “Green Interpol” activities as well as expanding number of environmental cases decided by the Europe Community Courts (i.e., the Court of First Instance) and the Court of Justice of the European Community, the objective of strengthening and promoting greater consistency in environmental laws and practices in Europe is being largely realised.

As discussed following Guidelines 47(a) and 47(b), international cooperation can greatly facilitate domestic enforcement efforts by establishing open and effective channels of communication to share information and exchange experiences. More broadly, such cooperation can include information exchange, mutual legal assistance, and joint investigations. For example, States can maintain up-to-date contact lists of relevant officials; regularly engage in discussions in bilateral regional, international forums or networks; negotiate extradition and mutual legal assistance treaties that expressly cover environmental violations; and identify areas of potential joint enforcement.



[47(a)]

[47(b)]

Legality certification requires an effective means of both issuing and verifying the licenses or certificates accompanying controlled substances, products or species. This may necessitate separate system for administration and monitoring. This is the point

at which national weaknesses or inadequacies are most manifest, as such system will require significant investment in new monitoring capacity and possibly too, technology. Most legal frameworks call for the seizure at the border of materials illegally imported or lacking a valid license. Quite often the problem is correct identification or detection of illegally imported product by customs or other law enforcement agencies at the port of entry. This may depend on the development of a mechanism or technology for making such detection. Most developing countries presently lack the capacity and the technology. It has been suggested that trade tracking could possibly consider expansion of the World Customs Organisation's Harmonized Systems of Customs Coding to embrace new forms of generic classification of materials as "environmentally controlled". This may simplify the identification process and go a long way in easing the identification of illegal shipments and swift prosecuting of offenders under national laws implementing MEAs. (Source: Gavin Hayman & Duncan Brack, *International Environmental Crime: The Nature and Control of Environmental Black Markets – Workshop Report* (RIIA 2002), available at http://europa.eu.int/comm/environment/crime/env_crime_workshop.pdf)



[33(f)]

[34(b)]

The Green Customs Initiative, described in a case study following Guideline 33(f), describes an approach for strengthening capacity of customs officers. Following Guideline 34(b), there is also a case study on the WCO Customs Enforcement Network that promotes information exchange among customs officers.



INTERNATIONAL COOPERATION IN TRANSBOUNDARY EIA: CROATIA AND SLOVENIA

Since 1996, the Republic of Croatia has been a party to the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention). So far, Croatia has undertaken EIAs pursuant to the Espoo Convention twice with the Republic of Slovenia (the Waste Water Treatment Plant in Rogaška Slatina in Slovenia and the Plovanija Stone Quarry in the Republic of Croatia), and one other process is in progress (an anti-flooddike Dražbinec-Svibovec in the Republic of Croatia). With the Republic of Italy, an EIA process has been completed for one project (the Ivana A gas field in the Croatian part of the Adriatic), while another one (the Katarina and Marica gas field in the Croatian part of the Adriatic) is still underway. Finally, Croatia also is undertaking an EIA process with the Republic of Hungary regarding a proposed Novo Virje hydropower plant in the Republic of Croatia. This case study examines the international institutional cooperation that took place within the context of the transboundary EIA conducted for the Plovanija Stone Quarry.

The proposed Plovanija Stone Quarry operation in Croatia, near the border with Slovenia, has the potential to affect the use of some shared watercourses with Slovenia. The quarry would extract approximately 76,000 cubic metres of stone for construction purposes each year. This is a relatively small project, but sensitive because of the potential impacts on a transboundary watercourse.

This project is not on the list of projects specifically requiring an EIA under the Espoo Convention (in appendix I). Nevertheless, Croatia decided to conduct an EIA pursuant to article 2(5) of the Convention.

On 18 April 2002, Croatia provided official notification to Slovenia of the proposed project and the proposed EIA. On 11 June, Slovenia responded, indicating its intention to participate in the EIA process. On 1 July, Croatia and Slovenia agreed that the EIA documentation could be in Croatian and did not need to be translated into Slovenian. Croatia prepared the initial EIA study and sent it to Slovenia (in the Croatian language). On 10 October, Slovenian experts submitted information about potential impacts of the proposed project in Slovenia. On 30 October, the parties agreed to meet in Slovenia. On 14 February 2003, Croatian and Slovenian experts and officials met in Ljubljana, Slovenia to discuss the EIA study. At this meeting, they agreed that there were no adverse effects beyond those described in the EIA study and foreseen by the protection measures for the project. On 12 March, Croatia decided to approve the project (there was no formal response by Slovenia). On 16 December 2003, Croatia asked Slovenia to participate in the monitoring process, pursuant to article 7 of the Convention.

This experience of international cooperation highlighted the importance of established channels of communications. The Croatian Ministry of Environmental Protection wrote a formal letter to the Slovenian Ministry for Environmental Protection. After the first communication (through the Ministers), the professional staff could communicate directly.

For more information, contact Ms. Nataša Kai-Bartulovi at
natasa.kacic-bartulovic@mzopu.hr



JOINT AIR QUALITY MONITORING IN BULGARIA AND ROMANIA

The Bulgarian public is particularly sensitive to issues of air pollution. This has affected the measures that the Government has taken. For more than 20 years, the air in Bulgarian border towns along the Danube River was heavily polluted. Bulgaria claimed that the pollution came from Romanian enterprises, while Romanian towns claimed that Bulgarian enterprises were the polluters. Due to differences in the norms and admissible limits, it was difficult to determine the origin of the pollution.

Bulgaria has a well-developed network for monitoring of ambient air quality. In 1998, Bulgaria joined the EU Environment Observation and Information Network to monitor air quality ("EUROAIRNET"). More than 45 monitoring stations are part of Bulgaria's National Automated System on Environmental Monitoring. Romania also monitors ambient air quality. However, differences in monitoring data and their formats between the two States made it difficult to ascertain the regional picture. For these reasons, a high-level political commitment was necessary. In the end, the Ministers of Environment of the two States agreed to settle this problem.

In 1999, the Joint Air Quality Monitoring System in the Bulgarian-Romanian boundary towns of the Lower Danube was established. This project was funded by PHARE, and ran through 2002. This project developed and installed an automated system for air quality monitoring, a radio system for data transfer, designing a database, and displaying the obtained information in real time on electronic panels in 4 towns each in Bulgaria and Romania.

The monitoring data have been harmonised. The state of the ambient air has improved significantly. In 2002 and 2003, there were only two incidents of excessive air pollution in Bulgarian towns and in these cases Romania took immediate measures to stop the pollution.

The Joint Air Pollution Monitoring System in the Bulgarian and Romanian towns in the Lower Danube is a good example of bilateral cooperation in fulfilling both States' obligations under the UNECE Convention on Long-Range Transboundary Air Pollution (LRTAP). In addition to the monitoring system that has been implemented, two more projects to implement the LRTAP Convention are being implemented with PHARE-CBC support:

- Development of a monitoring system for emissions of volatile organic compounds (VOCs), polycyclic aromatic hydrocarbons (PAHs), and heavy metals from stationary sources in the Bulgarian-Romanian boundary regions along the Lower Danube; and
- Development of a joint ambient air quality management programme for the Bulgarian-Romanian boundary regions along the Lower Danube.

For more information, contact KostovAngel@moew.government.bg



MACEDONIAN AND ALBANIAN COOPERATION ON LAKE OHRID

Lake Ohrid lies along the border between Macedonia and Albania, with approximately two-thirds of the lake in Macedonia and one-third in Albania. To coordinate efforts to protect and manage Lake Ohrid, the Council of Ministers of the Republic of Albania and the Government of the Republic of Macedonia signed an Agreement for the Protection and Sustainable Development of Lake Ohrid and its Watershed (17 June 2004).

This Agreement seeks to implement numerous conventions and agreements in the specific context of Lake Ohrid, including:

- the Convention concerning the Protection of World Cultural and Natural Heritage;
- the UN Convention on Biological Diversity;
- the Convention on Wetlands of International Importance, especially as Waterfowl Habitats (the Ramsar Convention);
- the UNECE Convention on Environmental Impact Assessment in a Transboundary Context (the Espoo Convention);
- the UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (the Aarhus Convention);
- the Convention on the Conservation of Wild Flora and Fauna and their Habitats in Europe (the Berne Convention); and
- the Convention on the Conservation of the Migratory species (the Bonn Convention).

This cooperative effort also builds upon other initiatives in the region to cooperatively manage shared lakes and watersheds.

In concluding this Agreement, the Governments of Albania and Macedonia agreed to assure an equitable and integrated approach to protecting and sustainably developing Lake Ohrid and its watershed, pursuant to European Union standards. The Governments also agreed to give the Lake and its watershed the status of a World Cultural and Natural Heritage Site and the status of "Biosphere Reserve" under UNESCO. Finally, the States agreed to take measures to meet the conditions for approval of the Council of Europe's proposal to designate the Prespa-Ohrid area as one of only two Euro-regions in Southeastern Europe.

In order to assure effectiveness in the achievement of the objectives and commitments specified in the Agreement, the Parties agree to establish the Watershed Management Committee for Lake Ohrid. This Committee has a number of specific functions, per the Agreement. The Committee is responsible for drafting and applying standards, environmental criteria, and requirements for sustainable development by which the integrated protection of Lake Ohrid and its watershed will be accomplished (including the special protection of the land, water, air, natural resources, biological diversity, urban environment, natural landscapes, and cultural values).

Macedonian and Albanian Cooperation on Lake Ohrid (cont'd)

The Committee is also responsible for completing the legal regulatory framework of the watershed area, as well as drafting and implementing strategies, programmes, and action plans for Lake Ohrid and its watershed. In particular, the Committee is charged with drafting and implementing a programme to develop effective monitoring systems to protect the environment — including water quality — of Lake Ohrid and its watershed (the programme has been prepared and a site visit is planned for late 2004). The Committee also will gather, process, and publish environmental information on Lake Ohrid and its watershed. The Committee is taking the lead in coordinating efforts to create the necessary conditions to designate the Prespa-Ohrid area as one of only two Euro-regions in Southeastern Europe. Finally, the Committee is charged with increasing the involvement of the public, NGOs, and other stakeholders in the protection and management of Lake Ohrid and its watershed.

For more information, contact Mrs. Menka Sprivska at M.Spirovska@moepp.gov.mk

Databases for Customs Officers

Electronic databases can facilitate information exchange and greatly improve the effectiveness of measures to control illegal trade. Such databases can assist in identifying or verifying substances that are being imported or exported: Is a particular object made of an animal or plant species that is governed by CITES? Does a particular chemical substance contain ozone depleting substances?

Databases can also identify trends in illegal trade. Which objects are smuggled the most? When are they smuggled? By whom? How are they smuggled? In addition to trends, databases can highlight known smugglers (i.e., individuals or companies that have been convicted in the past) that might warrant more careful inspection.

Some databases that can assist customs officers and others working on issues of import and export include:

- the Trade Infraction and Global Enforcement Recording System (TIGERS), developed by the CITES Secretariat; and
- the Trade Names of Chemicals database, developed by UNEP's OzonAction Programme.

These are described below. In addition, the WCO Customs Enforcement Network (described following Guideline 34(c)) includes a searchable customs database.





CITES TIGERS DATABASE

In order to facilitate computerised data management and tracking cases related to international trade in CITES-listed species, the CITES Secretariat developed the Trade Infraction and Global Enforcement Recording System (or TIGERS). Introduced in 2000, TIGERS is a computerised intelligence and information system. TIGERS facilitates the recording of information about wildlife crime and illicit trade received from a variety of sources, especially from CITES Management Authorities and a Party's enforcement agencies.

TIGERS is a database for recording intelligence on and incidents of illegal trade, as well as enforcement responses at national level. While it does not track compliance issues addressed by the compliance committees, TIGERS does help to address one of several compliance indicators used in CITES: the ability to effectively implement the Convention through the reporting of and response to illegal trade incidents.

The database can be used by CITES Management Authorities and by any enforcement agency that a Management Authority has designated to the CITES Secretariat. TIGERS can provide a wide range of information to Parties. Information can include, for example:

- involvement of States in wildlife crime reports;
- the frequency of particular species or species categories occurring in reports;
- names of individuals and companies that have been involved in wildlife crime or illicit trade; and
- the frequency of particular crime types in reports.

This information can be used to identify trends in illegal trade in wildlife, such as types of species being traded, types of crimes, and potentially suspect individuals or companies. The CITES Secretariat also uses information from TIGERS to develop Alerts for CITES Management Authorities, the World Customs Organization, and ICPO-Interpol.

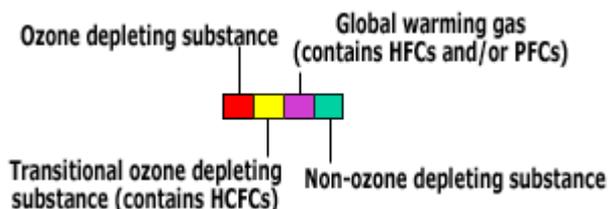
For more information, see or contact cites@unep.ch



ON-LINE DATABASE OF TRADE NAMES OF CHEMICALS CONTAINING OZONE DEPLETING SUBSTANCES

UNEP's Division of Technology, Industries, and Economics' (DTIE) OzonAction Programme developed a global database of the commercial trade names of chemical products that contain ozone depleting substances (ODS). This database provides a valuable resource for customs officers who must be able to identify permitted products and those that are banned or restricted under the Montreal Protocol and national implementing legislation. This on-line database allows customs officers to access information on nearly 900 commercial chemical products to determine whether they contain ODS (and are thus subject to regulation) or they contain non-ODS chemicals. The database allows for rapid access and flexible searching using various search fields such as Harmonised System (HS) codes, Chemical Abstract Service (CAS) numbers, chemical composition, company, and trade name. The database also provides information on alternatives, which can be useful for National Ozone Units and for small- and medium-sized enterprises.

The database provides three general types of information: (1) Trade name details; (2) Chemical data sheets; and (3) the phase-out schedule set under the Montreal Protocol and its various amendments and adjustments. The database also promotes synergies with the Climate Conventions by using an innovative and easily understood graphic tool (see below) that indicates for each chemical product which type of ODS it contains as well as whether the product contains greenhouse gases controlled under the Kyoto Protocol.



For more information, see

<http://www.unep.fr/ozonaction/library/tradenames/main.asp>

or contact ozonaction@unep.fr

Technology, Expertise, and Institutions to Address Illegal Shipments

- [48]** (d) *Development of technology and expertise to track suspect shipments, accompanied by information on specific production sources, the import and export of regulated chemicals and wastes, licensing systems, customs and enforcement data;*
- (e) *Strengthening mechanisms to facilitate information exchange regarding verification of illegal shipments and coordinating procedures for storing, processing and returning or destroying confiscated illegal shipments, as well as development of confidential channels, subject to domestic laws, for communicating information regarding illegal shipments;*

The development of technology and expertise to track suspect shipments, accompanied by information on specific production sources can significantly improve enforcement efforts. It has been observed that there is an enormous potential of new technology, expertise, and practices in this area.

The Royal Institute for International Affairs (RIIA) observed in its Report on International Environmental Crime that:

There are many new technologies that can make a big difference to the burden of national and international enforcement. Compliance and inspection methodologies such as Vessel Monitoring Systems and fine-scale satellite monitoring of forestry concessions have the potential to move the marginal benefit curve of monitoring downwards by lowering costs. Forensic science could also play a vital role in gathering evidence and identifying illegal materials, for this to be the case, it is important to treat environmental crime scenes much as other crime scenes and allow for detailed investigations. DNA fingerprinting and more traditional skills such as anatomic and morphological biology have proved vital in distinguishing contraband such as shahtoosh and toothfish fillets from look-alike products. DNA test kits can also be made available to enforcement operatives to enable simple point-of-contact tests. Microtaggant and chemical tracers, barcodes, radio frequency identification (RF/ID) tags and transponders may allow real-time inventory and monitoring of shipments. Some of these tracking techniques, especially UV-dye or transponder tracing, have also been used to track contraband in undercover operations and detect where such materials are laundered into legitimate commerce.

(Source: Gavin Hayman & Duncan Brack, International Environmental Crime: The Nature and Control of Environmental Black Markets – Workshop Report (RIIA 2002), available at http://europa.eu.int/comm/environment/crime/env_crime_workshop.pdf

Illegal shipments of restricted substances, species, or objects pose a considerable challenge to enforcement efforts. Exchanging information on such shipments, developing procedures for returning or destroying their contents, and creating confidential channels of communications regarding such shipments are all measures that call for international cooperation.

The Green Customs Initiative and the Lusaka Agreement Task Force (LATF) both try to build capacity of officials to identify and interdict illegal shipments. These are described in case

studies following Guidelines 33(f) and 48 (as well as 43), respectively. The TIGERS database developed by CITES to manage information on illegal international trade in listed wildlife species is described in a case study following Guideline 48(c). Following Guideline 34(c), there is a case study on the WCO Customs Enforcement Network. On customs institutions generally, see Guideline 41(b) and accompanying text.

For additional information on the use of remote sensing, satellite images, and other emerging technologies, see also text following Guideline 41(a)(ii).



[33(f)]
[34(c)]
[41(a)(ii)]
[41(b)]
[43]
[48]
[48(c)]



PRIOR INFORMED CONSENT

In 1989, UNEP and FAO started to implement a prior informed consent (PIC) procedure for the international trade of chemicals that have been banned or severely restricted at the national level. Under the PIC procedure, participating States undertake to:

- inform an international organisation whenever a chemical is severely restricted or banned in that State;
- advise the organisation of that State's decision on the importation of chemicals made subject to the PIC procedure;
- take measures to inform their exporters of the decisions of other States; and
- take actions within their jurisdiction to help ensure that their exporters comply with the decisions of importing States.

In 1998, Governments adopted the Rotterdam Convention, which makes the PIC procedure legally binding for Parties.

National Ban of Monocrotophos in Australia (Case Study on the First Step of the PIC Procedure: Notification of a National Ban or a Severe Restriction of a Chemical)

In September 2000, Australia's National Registration Authority for Agricultural and Veterinary Chemicals (NRA) adopted Board Resolution 793, which banned the use of the chemical monocrotophos. This ban cancelled the active constituent approval for monocrotophos, together with all product registration and associated label approvals for all products containing monocrotophos. The decision was based on the results of a review of monocrotophos under Australia's Chemicals Review Program. The review was undertaken because of concerns about high mammalian toxicity, occupational exposure, and potential for adverse environmental impacts. The review demonstrated that monocrotophos posed a high level of occupational exposure risk and risk to the environment, especially birds and aquatic species. Upon receipt of a second notification of a national regulatory action on monocrotophos from Hungary, the chemical was included in the PIC procedure. Decision of Brazil on Future Import of Phosphamidon

Prior Informed Consent (cont'd)

(Case Study on the Second Step of the PIC Procedure: Decisions on Future Imports of a PIC Chemical and Notification of the Decisions).

Upon consideration of the information provided by the secretariat through the Decision Guidance Document on phosphamidon, issued to help States to take decisions on the import of the chemical, as well as an assessment of risks posed by the chemical, Brazil decided that the chemical should be allowed for import under specified conditions: only for pesticide use, as a technical product, as well as formulations based on the active ingredient, registered by the Ministry of Agriculture. In case of wood treatment, import is permitted only if registered with IBAMA (Law No. 4.797; Law No. 7.802). This decision was communicated to the Secretariat, which further communicated it to other PIC participants.

Administrative Measures to Implement Import Decisions of Other Countries – European Union's CLEEN Programme (Case Study on the Third Step of the PIC Procedure: Measures to Ensure Compliance by Exporters and Importers).

EU Member States have established a Chemical Legislation European Enforcement Network (CLEEN). The primary goal of CLEEN is to coordinate enforcement projects for better compliance in the field of chemicals legislation by means of common priorities, planning, and execution of enforcement projects. CLEEN seeks to:

1. consolidate and strengthen European enforcement networks, including national customs and enterprise authorities;
2. improve awareness of, understanding of, and compliance with relevant legislation in present and future Member States;
3. improve the harmonisation of enforcement of chemicals legislation in the EU, thus creating equal conditions for industry in all Member States;
4. support the improvement of chemicals legislation, giving special attention to enforceability; and
5. support enforcement activities in Candidate States by expanding the network. CLEEN also facilitates the enforcement of the EC Import/Export Regulation (2455/92) for the control of dangerous substances through a system of prior informed consent.

For more information, see <http://www.pic.int> or contact pic@pic.int

National and International Points of Contact

- [48]** (f) *Designation of appropriate national and international points of contact to be forwarded to the UNEP enforcement database;*

Knowing who is responsible for enforcement matters at the national level can greatly facilitate enforcement cooperation efforts. Necessary information for reaching those responsible — all relevant national and international points of contact — such as full addresses, phone numbers, fax numbers, e-mail addresses, and the contact person's name, can be forwarded to the UNEP enforcement database.

UNEP has developed and is updating a database of national enforcement officials, including their full coordinates. Eventually, it will be accessible on the UNEP website at www.unep.org. In the meantime, UNEP encourage Parties to share and update the focal point contacts.

Contact information regarding CITES enforcement authorities is being collected by the Secretariat (pursuant to Notification to the Parties No. 2004/077 of 9 December 2004), and is accessible through the “National Contacts” section of the CITES Web site <http://www.cites.org>

The Web site for the International Network for Environmental Compliance and Enforcement (INECE) (<http://www.inece.org>) provides contact information for environmental enforcement officers and institutions in various States.

Many of the specific MEAs have on-line databases of their respective focal points. These are discussed, with Web links, following Guideline 24.



Transborder Communication between Agencies

[48] (g) *Facilitation of transborder communications between agencies, considering that States may designate responsibility on the same subject to different agencies, such as customs, police or wildlife officials;*

Because more than one agency can be charged with combating environmental violations, communications among the responsible agencies is vital to ensuring effective enforcement activities.

The UK initiative “Partnership for Action Against Wildlife Crime” (PAW) composed of the UK CITES Management Authority, the Home Office, UK Police Forces, Customs and Excise and NGOs, described as a “virtual enforcement think-tank,” is one example of a joint enforcement initiative. Another example of transboundary communications between agencies is provided by the tripartite multinational institutional framework established under the Lusaka Agreement. Through the Task Force, there is a direct communication link with the National Bureaux in the respective member States, and the link can be employed to facilitate the enforcement activities of national agencies inter se, since the Task Force provides a platform to link with the national bureaux of other States. [See the explanatory note under Guideline 48’s introductory paragraph above.]



[33(f)]

[34(a)]

[43]

[48]

[48(a)]

The Green Customs Initiative [see case study following Guideline 33(f)], the Lusaka Agreement Task Force (LATF) [see case study following Guideline 48, as well as Guideline 43], and the World Customs Organisation facilitate transborder communications for customs officials. Interpol, Europol, and IMPEL perform similar functions for police [see Guidelines 34(c) and 48(a)].

Regional Training to Detect and Prosecute Environmental Crimes

- [48]** (h) *Establishment of regional and subregional programmes providing opportunities for sharing information and strengthening training for detecting and prosecuting environmental crimes;*

All States, but particularly developing countries and countries with economies in transition, can benefit from regional and sub-regional training programmes for officials with enforcement-related responsibilities. Developing such programmes jointly for detecting and prosecuting environmental crimes allows two areas that go hand-in-hand to receive the emphasis they need; those whose responsibility it is to detect environmental crime need to be aware of the necessary elements for prosecution and those responsible for such prosecution need to know what is involved in detecting such crimes.

Addressing such training at the regional and sub-regional level allows States to avoid duplication of efforts in enforcement training and also to build informal and formal networks among enforcement personnel.

Examples of such training programmes include the Green Customs Initiative (described in a case study following Guideline 33(f)) and efforts by the Lusaka Agreement Task Force (described in case studies following the introductions to Guidelines 43 and 48).



[33(f)]

[43]

[48]



CITES REGIONAL AND SUB-REGIONAL ENFORCEMENT WORKSHOPS

The CITES Secretariat has organized and participated in many regional and sub-regional enforcement workshops. These workshops include a two-week course for Asian wildlife law enforcement officers held at the National Police Academy of India, a workshop organized by the Prosecutor General of Sweden for prosecutors throughout Europe, and a workshop organized by the United Kingdom for high-level enforcement officers from Member States of the European Union. These workshops typically address various aspects of detection and prosecution of wildlife crimes and violations.

For more information, see <http://www.cites.org> or contact cites@unep.ch

Allocation of Adequate Resources

[48] (i) *Allocation of adequate resources to support the effective enforcement and effective implementation of policies.*

Effective enforcement is impossible without adequate funding. Some MEAs place emphasis in their terms on adequate available funding (such as the Convention on Biological Diversity and the Montreal Protocol) to ensure that the objectives of the MEAs are realized. This emphasis is equally applicable in the context of effective enforcement of national laws, and effective implementation policies.

Appreciating the importance of funding at the outset can greatly improve an agreement's chances for success. For example, Article 8 of the Lusaka Agreement formally established a budget for the Agreement's Task Force in order to be operational and effectively fulfil its mandate. Member Parties are the contributors to the budget. In addition, the Task Force also gets extra-budgetary resources, such as grants, donations, technical assistance and funds for projects from supportive donor countries including the United States, Canada, United Kingdom, Norway, and Denmark.

The Global Environment Facility (GEF) is a major source of assistance to many countries in implementing the terms of specific MEAs. GEF was created to provide funding, including grants and concessionary loans, to developing countries and countries with economies in transition for projects and activities targeting global benefits in one or more of six focal areas: biological diversity, climate change, international waters, ozone layer, desertification, and persistent organic pollutants.



[41(g)]

In some countries, Environmental Funds (see discussion following Guideline 41(g), above) are used to help retain and manage funds. In many developing countries, the government salary of environmental staff is modest, particularly in comparison to what they could earn in the private sector or at NGOs.

This often leads to rapid attrition in governmental capacity. To help retain staff, agencies sometimes supplement salaries with payments from an Environmental Fund. This can be done either on a temporary and ad hoc basis or on a more permanent, institutionalized basis. The feasibility of such an approach depends in large part on the terms of the Environmental Fund, as well as governmental policies regarding salaries.

Capacity Building and Strengthening

[49] *Developing countries, particularly the least developed countries, and countries with economies in transition, require the building and strengthening of capacities for enforcement. It is recognized that environmental enforcement may be affected by conditions of poverty and governance that need to be addressed through appropriate programmes. The following measures can be considered for building and strengthening capacities for enforcement:*

- (a) Coordinated technical and financial assistance to formulate effective laws and regulations and to develop and maintain institutions, programmes and action plans for enforcement, monitoring and evaluation of national laws implementing multilateral environmental agreements;*
- (b) Development of specific guidelines with reference to particular agreements for law enforcement officers to conduct operations, investigations and inspections, and procedures for reporting and processing information nationally and internationally;*
- (c) Formulation of programmes for coordinating compliance and enforcement actions including compliance promotion, with other States;*
- (d) Use of regional and sub-regional centres and workshops to provide opportunities for sharing information and experiences and for cost-effective and long-term training programmes;*
- (e) Participation in international meetings, courses and training programmes, as well as in regional and global networks to facilitate sharing information and access to implementation and training materials.*

MEAs frequently provide terms that recognise the common but differentiated responsibilities of the Parties and, in that regard, call for developed nations to provide assistance to developing nations and nations with economies in transition so that they can meet their obligations under the agreement. This assistance can take many forms: technology transfer, capacity building and strengthening efforts, and financial assistance among others.

Lack of sufficient capacity to meet obligations imposed by an MEA (whether the lack is financial, technology, or skill-related) may be the most significant obstacle to the full implementation of many MEAs. As such, there is an abiding priority to develop and strengthen capacity. This is reflected in the adoption of the Bali Strategic Plan for Technology Support and Capacity-building, discussed following Guideline 33.



It should be noted that regional networking, sharing of experiences, and collaboration can be complicated when there are political tensions. Ironically, in such instances informal networking and collaboration can be the most feasible means for governments and their peoples to relate across borders. For example, informal and technical working groups, commissions, and exchanges have been able to work together in the Jordan River (Israel/

Jordan), South Caucasus, and during the Cold War (US/USSR) when political relations were tense.



33
43

In addition to the examples below, text following Guidelines 33 and 43 includes various examples and resources on capacity building and strengthening.

Coordinated Technical and Financial Assistance

- [49]** (a) *Coordinated technical and financial assistance to formulate effective laws and regulations and to develop and maintain institutions, programmes and action plans for enforcement, monitoring and evaluation of national laws implementing multilateral environmental agreements;*

UNEP has in the past three decades been in the forefront of (i) assisting governments in the developing countries and those with economies in transition in building technically skilled personnel to negotiate and adopt MEAs and (ii) coordinating technical and financial assistance to assist these countries in the formulation of national environmental laws and regulations.

Through UNEP's Global Training Programmes in environmental law and policy that began in 1993, the organisation has helped to develop capacity both at international and national levels. According to Dr. Klaus Töpfer, former Executive Director of UNEP, "The objectives of the training programme are: to inform participants about legal and institutional developments in the field of environmental law both at the international and national levels; to promote a greater interest and commitment to using environmental law as an instrument for translating sustainable development policies into action; and to enable participants to take initiatives on a more informed basis in their respective home countries in the development and implementation of environmental law." The faculty for these Global Training Programmes have included resource persons from UNEP, the MEA Secretariats (who present their respective MEAs), and other recognised experts.

Efforts to build capacity in environmental law and institutions are among the most important activities that can be jointly undertaken by developed and developing countries. Officials from developing countries need to be particularly active, not just in taking advantage of existing programmes, but in ensuring that capacity-building initiatives are tailored to meet their needs. Capacity building and strengthening exercises work best when they are the result of true partnerships between the developed and developing world.

Many MEAs provide financial means for assisting countries, particularly developing countries and countries with economies in transition, to implement their commitments under the MEA. For example:

- Articles 20 and 21 of the Convention on Biological Diversity provide for Financial Resources and a Financial Mechanism to enable developing country Parties to meet the agreed full incremental costs to them associated with implementing measures to fulfill the CBD's obligations and to benefit from its provisions.
- Article 10 of the Montreal Protocol established a Multilateral Fund that is financed by non-developing country Parties and voluntary and in-kind contributions to assist developing country Parties.

In addition, global institutions such as UNEP and the GEF provide well-established avenues for countries to obtain assistance in certain circumstances.

For example:

- UN General Assembly Res. 2997 (xxxvii) established the Governing Council of UNEP and made provision for an Environment Fund, which seeks to, *inter alia*, “ensure that the development priorities of developing countries shall not be adversely affected and adequate measures be taken to provide additional financial resources on terms compatible with the economic situation of the recipient developing country.” More information on the Environment Fund is available at http://www.unep.org/rmu/html/fund_environment.htm
- The Global Environment Facility (GEF) is the only multi-convention financing institutional mechanism to meet the incremental costs of projects in six focal areas – biological diversity, climate change, international waters, ozone layer depletion, land degradation and desertification, and persistent organic pollutants – in the qualified countries (mainly the developing countries and countries with economies in transition). More information on the GEF is available at <http://www.gefweb.org>



11(c)

For information on funds to facilitate participation in negotiating MEAs, see discussion following Guideline 11(c), above.

The permanent (bilateral) missions in developing countries can be an important source of funding for environmental projects, including those to implement MEAs. In many cases, it can be productive to develop an ongoing working relationship with the relevant officers in these missions. While each mission has its own schedule for planning and for allocating funds, it is advisable to approach such missions early in the planning process (often early in the year) when the missions have funding.

In addition to accessing financial and technical assistance, States may wish to consider ways to coordinate funding among the various bilateral and multilateral institutions supporting activities in a particular State. Bulgaria (see below) and other countries have initiated regular or ad hoc donor conferences with the express purpose of discussing donor and recipient priorities and coordinating assistance.



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Of particular relevance here, the Bali Strategic Plan for Technology Support and Capacity Building seeks to improve the coordination of technical and capacity building assistance (see case study following Guideline 33).



DONOR CONFERENCES IN BULGARIA

Bulgaria has developed an approach to coordinate external funding for environmental projects in the country. Following recommendations that an OECD team made in its Review of Environmental Actions in Bulgaria, 1995, Bulgaria has defined priority actions for each sectoral programme in the field of environment. The priority setting process has helped to identify projects that could have the greatest effect, and this process has proven essential in attracting donor assistance (due in part to donor requirements for investing in projects that will have an impact).

Every year, the Ministry of Environment and Water (MOEW) organizes a donors meeting to review ongoing projects financed by different donors and to discuss future projects. This has been done annually for seven years. The ambassadors of the donor countries and representatives from international donor organizations are invited to participate in the meetings. At these meetings, MOEW surveys its environmental programmes, presents its priorities, and discusses project proposals that need financing; similarly, donors present their priorities for supporting projects. Through this regular discussion, it is easier to identify common priorities, and donors are able to coordinate their assistance among one another and with the Bulgarian Government.

The first donors meetings were quite formal, and the participants only read their reports. Then the format was changed. Now, the meetings include short presentations, informal discussions, and a press conference. After the meeting, MOEW organizes an excursion to show the progress achieved with donors' support. Every year, the excursion is to a different region of the country. The donors have been enthusiastic about these excursions, which illustrate the impact of the donor assistance. The excursions also highlight the natural beauty of Bulgaria, which helps a lot to attract donor's support.

Before each meeting, internal domestic consultations are held to identify the priorities and proposed projects. Following the example of the MOEW, the Council of Ministers of the Republic of Bulgaria established joint working groups that are co-chaired by a deputy minister from the respective ministry and a representative from the embassies of the donor countries. The working groups meet twice a year to set priorities and to settle any problems that may arise in connection with donor support.

For more information, contact Emilia Kraeva at ek@moew.government.bg



THE AIMS PROJECT IN SOUTH EASTERN EUROPE

To build capacity of countries in South Eastern Europe (SEE) to implement relevant MEAs, the Regional Environmental Center (REC) for Central and Eastern Europe established a project on "Acceptance and Implementation of Multilateral Environmental Agreements in South Eastern Europe (AIMS)." With the support of the Government of The Netherlands, the project promotes the application of MEAs as one way of resolving priority environmental problems in SEE countries, at both the regional and national levels. The seven beneficiary countries include Albania, Bosnia and Herzegovina, Bulgaria, Croatia, FYR Macedonia, Romania, Serbia and Montenegro.

To support the various activities throughout the process, the project established a Joint Network of Senior Officials and MEA Legal Experts (the AIMS Network). The countries' environment ministries also created national advisory committees (which included international and domestic experts, as well as broader multi-stakeholder participation).

The AIMS Project developed a framework to inventory MEAs and assess their implementation in the region. It supported national Governments in conducting these inventories and assessed, which also highlighted the MEA needs in the region.

Through the project, States identified priority environmental issues, prioritised MEAs based on the needs, and identified resources to meet those needs. This process also examined links among the priority issues to highlight potential synergies.

Based on these identified priorities and needs, the project assisted States in formulating legislative and administrative measures. The project built capacity for implementation of MEAs, issuing reports employing a regional perspective, capacity building through exchanges of information and experience, facilitating contacts with international organisations and institutional arrangements, and responding to requests from recipient countries for specified expertise. The project also conducted exchanges and seminars relating to issues of MEA implementation, as well as conducting capacity-building workshops on selected topics (such as reporting obligations under linked conventions).

For more information, see <http://www.rec.org/REC/Programs/REReP/AIMS/>

Guidelines for Enforcement and Information Processing

- [49]** (b) *Development of specific guidelines with reference to particular agreements for law enforcement officers to conduct operations, investigations and inspections, and procedures for reporting and processing information nationally and internationally;*

The development of specific guidelines on particular MEAs to assist law enforcement officers to conduct operations, investigations and inspections, and procedures for reporting and processing information nationally and internationally can enhance enforcement efforts. MEAs for which international guidelines have been prepared to assist with their smooth and effective implementation include CITES and the Basel Convention. In the case of the latter, there are no fewer than twelve different sets of Guidelines.

International guidelines can serve as templates for national efforts, but there is still a need to adapt the international guidelines to the particular national conditions and capacity. Some States have done this by using the international guidelines as an informative tool for developing legislation and policy; other States have first developed national guidelines based on the international guidelines.



BASEL CONVENTION GUIDELINES

The Basel Convention has prepared technical guidelines on the following waste streams and disposal operations, including:

- Framework Document on the preparation of technical guidelines for the environmentally sound management of wastes subject to the Basel Convention;
- Technical Guidelines on hazardous waste from the production and use of organic solvents (Y6);
- Technical Guidelines on hazardous waste; waste oils from petroleum origins and sources (Y8);
- Technical Guidelines on wastes comprising or containing PCBs, PCTs, and PBBs (Y10);
- Technical Guidelines on wastes collected from household (Y46);
- Technical Guidelines on specially engineered landfills (D5);
- Technical Guidelines on incineration on land (D10);
- Technical Guidelines on used oil re-refining or other re-uses of previously used oil (R9); and
- Guidance Document on transboundary movements of hazardous wastes destined for recovery operations.

For more information, contact sbc@unep.ch

Additional legal, technical, and scientific guidelines, guidance, and training manuals can be found (in some or all of the six UN languages) at

<http://www.basel.int/meetings/sbc/workdoc/techdocs.html>



OECD GUIDING PRINCIPLES FOR REFORM OF ENVIRONMENTAL ENFORCEMENT AUTHORITIES

Working with countries with economies in transition, the Organisation for Economic Co-operation and Development (OECD) developed “Guiding Principles for Reform of Environmental Enforcement Authorities in Transition Economies of Eastern Europe, Caucasus and Central Asia (EECCA).” This document was developed by officials and experts from the EECCA region, OECD, and Central European countries. The Guiding Principles were adopted in 2002 and presented at the Fifth “Environment for Europe” Ministerial Conference in May 2003. At this conference, the Environment Ministers and Heads of delegation from 51 UNECE countries and the European Commission reaffirmed their commitment to strengthening environmental protection in the region, and the Ministers invited all countries to implement the Guiding Principles, and donors to support their implementation.

The Guiding Principles articulate the key features of an effective and efficient system for environmental enforcement, and they provide guidance to EECCA countries seeking to reform their laws and institutions to implement and enforce their environmental laws more effectively. The Guiding Principles address a range of governmental structures responsible for identifying, monitoring, preventing, and taking action to correct non-compliance with environmental requirements. The Guiding Principles include six categories of recommendations:

- Fundamentals of enforcement
- Responsibilities, powers, and organisation
- Role of the general public and the regulated community
- Working methods, strategies, and tools
- Resources, budget, and financial management
- International cooperation

The Guiding Principles also encourage national enforcement agencies to utilise guidance provided by UNEP, UNECE, and other international organisations to improve their compliance with and enforcement of MEAs. The Guiding Principles can be found at <http://www.oecd.org/dataoecd/36/51/26756552.pdf>

More recently, the OECD published an “Inspectors Toolkit” that covers a wide range of management, procedural, and substantive aspects of environmental enforcement and compliance. This publication presents best international practice to support improvements and help build the capacity of environmental inspectorates in countries with economies in transition. For this and additional related OECD publications on aspects of environmental enforcement and compliance (including vocabulary, financing, permitting, and measuring results), see <http://www.oecd.org/enf/policy>



TRANSBOUNDARY EIA GUIDELINES AROUND THE CASPIAN SEA

The 5 States around the Caspian Sea – Azerbaijan, Islamic Republic of Iran, Kazakhstan, Russian Federation, and Turkmenistan – have acknowledged the pressure that a large number of projects with possible transboundary impacts could have on the Caspian Sea. Some, but not all, of the States are parties and signatories to the UNECE Convention on Environmental Impact Assessment (EIA) in a Transboundary Context (the Espoo Convention), which requires them to conduct an EIA when a planned activity may cause significant adverse transboundary impacts. The fact that not all States are parties to the MEA that the guidelines seek to implement offers a unique inspiration, as all States acknowledge the benefit of the guidelines for their environmental management.

However, the absence of agreed procedures for conducting an EIA and for informing potentially affected neighbouring States have been obstacles for the smooth implementation of the Convention and problematic for the protection of the environment. Lack of specific modalities in the Espoo Convention meant that it was unclear what was required of whom and when. Different languages and cultures further complicated effective implementation.

With the support of UNEP, UNECE, and the European Bank for Reconstruction and Development (EBRD), the five States have developed practical, step-by-step procedures for implementing EIAs in a transboundary context. These sub-regional guidelines, adopted in 2003 and focused on the Caspian Sea area, address compliance issues, notifications, public consultations, reviews, and responses.

In the context of the Caspian Environment Programme (CEP), a series of workshops were held to discuss the development of the guidelines. This took place in parallel with the efforts to reach agreement on the Framework Convention on the Caspian Sea Environment and with the involvement of the Espoo Convention Secretariat. The presence of an internationally funded project that coordinates the regional environmental management efforts (in this case, the CEP) has been a major factor in ensuring the sustainability of the guidelines, e.g through utilising the CEP website and providing a framework for multistakeholder consultations.

It is noteworthy that these guidelines for operationalising the Espoo Convention (on transboundary EIA) in this particular sub-region were developed through a process that was separate from the Espoo Convention (and included non-Parties) but in consultation and coordination with the Convention's Secretariat.

This process produced a range of specific tools for different parties involved in or affected by such projects, including:

- Guidelines for countries developing transboundary projects,
- Guidelines for affected countries,

Transboundary EIA Guidelines around the Caspian Sea (cont'd)

- Guidelines for project developers;
- A web page on CEP website for Espoo projects; and
- Summary of tools for public consultation.

Many of the guidelines include checklists to assist project developers, countries, and other interested actors in ensuring effective transboundary EIAs and consultations. This is of particular interest to international development banks, such as EBRD, which may often engage in projects with transboundary impacts and through these guidelines obtain a clearer picture of project costs and implementation schedules.

The next challenge for the guidelines will be to put them into operation and share examples of best practices. This further development is expected to take place under the Caspian Sea Framework Convention, perhaps through the development of protocols.

The guidelines have also revealed a need for further training of local authorities, increased involvement of NGOs, and improved information to the public.

For more information, see

<http://www.caspianenvironment.org> or contact John.Carstensen@unep.ch

Coordinating Compliance and Enforcement Actions with Other States

- [49]** (c) *Formulation of programmes for coordinating compliance and enforcement actions including compliance promotion, with other States;*

The Regional Seas Programme administered by UNEP represents an example of formulated programmes for coordinating compliance and enforcement actions including compliance promotion among States. Cooperation at the regional level, particularly among States that share the same marine and coastal area, through the Regional Seas Programme has been crucial for success in arresting marine degradation.

In the same vein, the Lusaka Agreement has opened up a viable avenue of cooperation among States in the African subcontinent (the Agreement is open for accession by any African State) in compliance and law enforcement actions to curb over exploitation of the continent's wild fauna and flora through illegal international trade [see case studies following Guidelines 43 and 48]. Similarly, the SADC Wildlife Protocol, ASEAN Wildlife Enforcement Network (ASEANWEN), the North American Wildlife Enforcement Group (NAWEG), and the EU Enforcement Group provide similar opportunities to coordinate compliance and enforcement actions in their respective regions.



[43]

[48]

Regional Centres and Workshops for Information Sharing and Training

- [49]** (d) *Use of regional and sub-regional centres and workshops to provide opportunities for sharing information and experiences and for cost-effective and long-term training programmes;*

Regional and sub-regional centres and workshops can provide opportunities for sharing information and experiences and for cost-effective and long-term training programmes. Such efforts can target capacity building and strengthening resources that are not currently harnessed efficiently for maximum impacts. By placing more effort on the approach of “training the trainers” at regional and international levels, these efforts can maximize their efficiency at these levels, but also at the national level, as the participants can proceed to train their fellow national environmental officials.



[34(b)]

[43]

In addition to the workshops below, see the case study on capacity building under the Lusaka Agreement following Guideline 43 and the case study on the Regional Environmental Center for Central and Eastern Europe following Guideline 34(b).



REGIONAL CAPACITY BUILDING THROUGH INTERNATIONAL LAW ENFORCEMENT ACADEMIES

The International Law Enforcement Academy (ILEA) programme was established by the US Department of State in 1995. It fosters a cooperative law enforcement regional partnership to counter international crime through regional and national capacity building and networking. ILEA courses target supervisory criminal investigators and criminal justice managers, and aim at enhancing their capacity to investigate crime and criminal organizations. The ILEA courses are both general (e.g., management and technical courses) as well as topical to improve law enforcement in a wide range of contemporary issues. ILEAs are currently operating in Hungary (Budapest), Thailand (Bangkok), Botswana (Gaborone), and Costa Rica (San Jose).

Although one of the main areas of focus is counter-narcotics, ILEAs also address international environmental crimes, including illegal wildlife trade. For instance, a Wildlife Crime Investigations Course was held September 8-19, 2003 at Thailand's ILEA to improve the participants' understanding of the roots and causes of illegal wildlife trade, as well as the patterns of wildlife extraction and trafficking. In addition, Interpol, with funding from the United States, delivered an environmental crimes training course at the ILEA facility in Budapest, Hungary, in June 2002.

For more information,

see <http://www.ileabangkok.com/> or <http://www.usembassy.hu/ilea.htm>



RAMSAR CONVENTION REGIONAL CENTRES

To assist Governments and other stakeholders in implementing the Ramsar Convention on Wetlands of International Importance, two regional training centres have been established in the Americas and Asia. An agreement signed in February 2003 between the Government of Panama and the Convention on Wetlands led to the establishment of a Regional Ramsar Centre for Training and Research on Wetlands in the Western Hemisphere (CREHO) in Panama City in January 2004. A similar Regional Ramsar Centre for Training and Research on Wetlands in Western and Central Asia was established in the city of Ramsar in the Islamic Republic of Iran.

The key priorities of the Centres are to provide training related to implementation of the Convention and to promote exchange and networking within the respective regions. The specific topics of training are identified through regional needs assessments. The funding of the Centres is shared between the host countries, the Ramsar Secretariat, Parties to the Convention in those regions, and external donors.

For more information about CREHO Regional Centre, see <http://www.creho.org> or contact Director Rosa Montañez rmontanez@creho.org

For more information about the Asian Regional Centre, see <http://www.ramsarcenter-cwa.org/> or contact Mr. Abdolhamid Amirebrahimi ramsar.center.ramsar@gmail.com



REGIONAL ENVIRONMENTAL COOPERATION IN THE SOUTH CAUCASUS

In general, cooperation in the South Caucasus region is significantly impeded by geopolitical conflict. Nevertheless, environmental imperatives have compelled regional cooperation in the environmental sphere. Such cooperation does occur at the governmental level, albeit in a rather limited fashion and often with the assistance of non-governmental organizations.

At the same time, cooperation in the non-governmental and scientific spheres is more widespread and well-developed. Regional seminars and conferences are held and regional environmental projects related to fulfillment of various MEAs are implemented. International institutions – such as REC Caucasus, OSCE, UNDP, UNEP, GEF, Earth Council, and USAID – often play key roles in facilitating and supporting these activities.

Thus, for example, a number of projects have been implemented to protect biodiversity (particularly relating to birds), combat desertification, sustainably manage water resources, and promote environmental education and raise public awareness. Civil society preparations for the 2002 World Summit on Sustainable Development (WSSD)

Regional Environmental Cooperation in the South Caucasus (cont'd)

were undertaken at regional level. This cooperation resulted in the development of the non-governmental paper on "Main Principles and Approaches of the Concept of Sustainable Development for South Caucasus." Preparation for the UN Decade of Education for Sustainable Development has been launched at regional level as well.

A regional project on "Local Agendas 21 - Sustainable Cities" was completed in 2003. Looking at examples of cities in Armenia, Azerbaijan, and Georgia, this project developed Guidelines on Local Agendas 21 for cities in countries with economies in transition. The Guidelines reflect the essence and requirements of numerous MEAs and assist in their implementation at the local level.



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For more information, contact Dr. Karine Danielyan at kdanel@freenet.am; more information on the UN Decade of Education for Sustainable Development can be found following Guideline 44.



THE BASEL CONVENTION REGIONAL CENTRES

The Basel Convention calls for the establishment of regional or subregional centres for training and technology transfer regarding the management of hazardous wastes and other wastes and the minimization of their generation. The successful implementation of the Convention and the achievement of the environmentally sound management of hazardous wastes relies upon developing the adequate capacity at the national or regional level, taking into account the needs of developing countries. Such centres will be of the utmost importance for the countries that lack trained manpower and technology. It was therefore decided to identify the specific needs of these regions in this field taking into account on-going and future activities as well as ways and means for the establishment and functioning of such Centres. The following aspects were considered in the feasibility studies:

- Identifying and prioritizing the needs of the region;
- Identifying the resources available in the region;
- Identifying the resources required to address the needs;
- Identifying the benefits to be gained through the establishment of the pilot centre;
- Obtaining views from the candidate regions as to the type of technical assistance or training they consider to be of the highest priority;
- Determining if a centre is immediately required to address the prioritized needs; and
- Determining what resources are available from each candidate region and what resources would be required.

The Basel Convention Regional Centres (cont'd)

At the Third meeting of the Conference of the Parties various sites were selected for the establishment of the regional and sub-regional centres:

- Latin America and the Caribbean: Uruguay hosts the coordinating centre with three sub-regional centres: (i) Argentina for the South American subregion; (ii) El Salvador for Central America; and (iii) Trinidad and Tobago for the Caribbean.
- Africa: Nigeria hosts the coordinating centre for the region, and there are three subregional centres: (i) Egypt for Arabic-speaking countries, (ii) South Africa for English-speaking countries, and (iii) Senegal for French-speaking African countries.
- Central and Eastern Europe: Slovak Republic and Russian Federation
- Asia and the Pacific: China, India, and Indonesia.
- West Asia: Iran.

UNEP and the Secretariat for the Basel Convention have been active since 1988 in organising seminars and workshops for developing countries as mandated by the Convention and decisions of the Conference of the Parties.

The case study on "Technology Transfer Activities through Basel Convention Regional Centres" (following Guideline 33) provides additional information on the technology transfer activities undertaken by the Regional Centres.



[33]

For more information, see <http://www.basel.int> or contact the Secretariat of the Basel Convention sbc@unep.ch



USEPA's INTERNATIONAL ENVIRONMENTAL ENFORCEMENT AND COMPLIANCE TRAINING

The International Compliance Assurance Division (ICAD) of the U.S. Environmental Protection Agency (USEPA) provides or arranges environmental enforcement and compliance training to officials of environmental enforcement agencies outside of the United States, including attorneys, inspectors, technical staff, investigators, and police.

Assistance may be provided in the United States. Alternatively, to minimize travel costs, training can also be provided within the State that requested the training. Training is almost always without charge for tuition or course materials. Courses reflect the best international and USEPA practice and are appropriate for any culture or audience. Training events may include participation by cooperating U.S. investigative agencies and the Department of Justice, and if so would cover their particular aspects of environmental enforcement

For more information, contact the Director, International Compliance Assurance Division (ICAD, mail code 2254A), USEPA, 1200 Pennsylvania Avenue NW, Washington, DC 20460 U.S.A.; tel. +1-202-564-5400; fax. +1-202-564-0073.



INTERPOL TRAINING COURSE IN COMBATTING ENVIRONMENTAL CRIME

Interpol has developed a unique environmental crimes training course for law enforcement officers. This training programme utilises a multi-national training force comprised of senior law enforcement personnel and attorneys whose area of expertise is environmental crimes investigations and litigation. The course provides courseroom instruction via lectures, case studies, interactive scenarios and breakout sessions, and audio/video presentations to law enforcement officers, first responders, environmental enforcement programme personnel, and related prosecutorial and judicial officials. This training provides a greater understanding and ability to respond practically to the broad array of environmental crimes scenarios and officer-safety issues at environmental crime scenes and events.

Students are provided with effective and practical investigative and forensic tools, methods, and techniques that can be applied to investigations involving all environmental crimes affecting the air, land (hazardous wastes and pesticides), water, and wildlife. There is additional focus on issues related to environmental terrorism, hot-zone forensics, and transboundary crimes issues. All modules are broadly construed to provide basic overviews and understanding of each relevant environmental media, and issues of concern specific to all relevant MEAs, including the Basel Convention, CITES, Stockholm Convention, Rotterdam Convention, and the Montreal Protocol.

All modules address health and safety issues that may confront the police officer conducting an environmental crimes investigation. International police cooperation focuses on transboundary issues and provides tools and information to officers seeking assistance during the investigation of cross-border environmental crimes. All modules are designed to focus specifically on the issues of concern in the region where the training will be delivered. There is a strong emphasis on learning through student participation and interaction, which is underscored by providing practical exercises and breakout sessions throughout the course.

For more information, see <http://www.interpol.int> or contact cp@interpol.int

Participation in International Meetings, Courses, and Training Programmes

- [49]** (e) *Participation in international meetings, courses and training programmes, as well as in regional and global networks to facilitate sharing information and access to implementation and training materials.*

Participation in international meetings, courses and training programmes are highly effective means for fostering needed interactive exposure for environmental law enforcement officers from the developing countries and countries with economies in transition, and it is strongly recommended for these governments. In a unique way these one-, two- or three-day sessions afford long-lasting benefits from interaction, sharing experiences, acquiring new knowledge, and making new contacts that will enhance the work of the participants.

In addition to the case studies below, information on networks can be found following Guidelines 34(c) (including a Checklist on Developing Networks), 44 (case study on CERN), and 48 (case study on Lusaka Agreement).



[34(c)]

[44]

[48]



THE INTERNATIONAL NETWORK FOR ENVIRONMENTAL COMPLIANCE AND ENFORCEMENT (INECE)

Also active in this area is the International Network for Environmental Compliance and Enforcement (INECE). INECE is an international partnership promoting compliance and enforcement of domestic and international environmental laws through networking, capacity building and enforcement cooperation. INECE, which has longstanding working relationship with UNEP, has held a biannual International Conference on Environmental Compliance and Enforcement since 1990. The most recent was the Seventh International Conference on Environmental Compliance and Enforcement, held in Marrakech, Morocco in April 2005. The resulting Conference Statement affirmed the critical role environmental compliance and enforcement must play in achieving the rule of law, good governance, and sustainable development.



Tom Maslany

Exchange of experiences at an INECE conference.

The International Network for Environmental Compliance and Enforcement (INECE) (cont'd)

INECE welcomes and involves more than 4,000 participants, persons who register at the "Contact Information Form" on its Web site, and who are government officials and NGO partners or members of civil society active in or supportive of environmental compliance and enforcement in their countries and in international organizations.



34(c)

For more information on INECE, see the case study on "Global Initiatives to Share Experiences in Environmental Management" following Guideline 34(c) and visit <http://www.inece.org>



THE INTERPOL ENVIRONMENTAL CRIMES COMMITTEE

Interpol established its Environmental Crimes Committee in 1992 to provide a forum for law enforcement officials around the world who have the responsibility to investigate environmental crime. The Committee has developed a training course for environmental law enforcement (described above, following Guideline 49(d)). The Committee comprises two working groups: the Pollution Crimes Working Group and the Wildlife Crimes Working Group. Each group is headed by a specialised police officer with extensive experience in the field, and group members are actively engaged in numerous projects and initiatives.

The Wildlife Working Group has focused on CITES enforcement, wildlife smuggling, related transboundary enforcement issues, and the implementation of a computerised Interpol database to broaden and strengthen support for international and multi-jurisdictional investigations involving wildlife crime.

The Pollution Crimes Working Group actively supports the Clean Seas Initiative, and it develops training and enforcement methodologies to assist in combating illegal oil and other pollution into oceans and other waterways. This Group also is involved in determining the role of organised crime in environmental crime, and it identified trends and patterns in the transboundary movement of illegal hazardous wastes.

For more information, see <http://www.interpol.int>



REGIONAL NETWORKS OF ODS OFFICERS UNDER THE MONTREAL PROTOCOL

Regional networking of officers responsible for ozone-depleting substances (ODS) provides a regular, interactive forum for Montreal Protocol focal points to exchange experiences, develop skills, and share knowledge and ideas with counterparts from both developing and developed countries. During the current “compliance period” of this MEA, the networks are specifically oriented to analyse, discuss, and resolve compliance problems. Issues related to enforcement (particularly related to customs) also form a significant part of the Networking discussions. For more information on the regional ODS networks, see the case study on “Regional Networks and South-South Cooperation to Assist Countries in Complying with the Montreal Protocol” accompanying Guideline 34(c)



[34(c)]

Annexes

Full Text of The UNEP Guidelines on Compliance with and Enforcement of Multilateral Environmental Agreements

1. In its decision 21/27, dated 9 February 2001, the Governing Council of the United Nations Environment Programme (UNEP), recalling the Nairobi Declaration on the Role and Mandate of the United Nations Environment Programme and the Malmö Ministerial Declaration, requested the Executive Director “to continue the preparation of the draft guidelines on compliance with multilateral environmental agreements and on the capacity-strengthening, effective national environmental enforcement, in support of the ongoing developments of compliance regimes within the framework of international agreements and in consultation with Governments and relevant international organizations.”
2. Pursuant to that decision, draft guidelines have been prepared for submission to the UNEP Governing Council for review and adoption.
3. The guidelines are advisory. They provide approaches for enhancing compliance with multilateral environmental agreements and strengthening the enforcement of laws implementing those agreements. It is recognized that parties to the agreements are best situated to choose and determine useful approaches in the context of specific obligations contained in the agreements. Although the guidelines may inform and affect how parties implement their obligations under the agreements, they are non-binding and do not in any manner alter these obligations.
4. The guidelines are presented in two chapters: the first chapter deals with enhancing compliance with multilateral environmental agreements and the second chapter deals with national enforcement, and international cooperation in combating violations, of laws implementing multilateral environmental agreements.

I. GUIDELINES FOR ENHANCING COMPLIANCE WITH MULTILATERAL ENVIRONMENTAL AGREEMENTS

Introduction

5. Strengthening of compliance with multilateral environmental agreements has been identified as a key issue. These guidelines provide approaches to enhance compliance, recognizing that each agreement has been negotiated in a unique way and enjoys its own independent legal status. The guidelines acknowledge that compliance mechanisms and procedures should take account of the particular characteristics of the agreement in question.

A. Purpose

6. The purpose of these guidelines is to assist Governments and secretariats of multilateral environmental agreements, relevant international, regional and subregional organizations, non-governmental organizations, private sector and all other relevant stakeholders in enhancing and supporting compliance with multilateral environmental agreements.

B. Scope

7. These guidelines are relevant to present and future multilateral environmental agreements, covering a broad range of environmental issues, including global environmental protection, management of hazardous substances and chemicals, prevention and control of pollution, desertification, management and conservation of natural resources, biodiversity, wildlife, and environmental safety and health, in particular human health.
8. The guidelines are intended to facilitate consideration of compliance issues at the design and negotiation stages and also after the entry into force of the multilateral environmental agreements, at conferences and meetings of the parties. The guidelines encourage effective approaches to compliance, outline strategies and measures to strengthen implementation of multilateral environmental agreements, through relevant laws and regulations, policies and other measures at the national level and guide subregional, regional and international cooperation in this regard.

C. Definitions

9. For the purpose of this chapter of these guidelines:

“Compliance” means the fulfilment by the contracting parties of their obligations under a multilateral environmental agreement and any amendments to the multilateral environmental agreement;¹

“Implementation” refers to, inter alia, all relevant laws, regulations, policies, and other measures and initiatives, that contracting parties adopt and/or take to meet their obligations under a multilateral environmental agreement and its amendments if any.

D. Compliance Considerations

1. Preparatory work for negotiations

10. To facilitate compliance with multilateral environmental agreements, preparatory work for negotiations may be assisted by the following actions:
- Regular exchange of information among States, including through the establishment of forums, on environmental issues that are the subject of negotiations and the ability of the States to address those issues;
 - Consultations in between negotiating sessions on issues that could affect compliance among States;

- (c) Workshops on compliance arranged by negotiating States or relevant multilateral environmental agreement secretariats that cover compliance provisions and experiences from other agreements with participation of Governments, non-governmental organizations, the private sector and relevant international, regional and subregional organizations;
- (d) Coordination at the national level among ministries, relevant agencies and stakeholders, as appropriate for the development of national positions;
- (e) Consideration of the need to avoid overlaps and encourage synergies with existing multilateral environmental agreements when considering any new legally binding instrument.

2. Effective participation in negotiations

11. To facilitate wide and effective participation by States in negotiations, the following actions may be considered:
 - (a) Assessment of whether the issue to be addressed is global, regional or subregional, keeping in mind that, where appropriate, States could collaborate in regional and subregional efforts to promote implementation of multilateral environmental agreements;
 - (b) Identification of countries for which addressing an environmental problem may be particularly relevant;
 - (c) Establishment of special funds and other appropriate mechanisms to facilitate participation in negotiations by delegates from countries requiring financial assistance;
 - (d) Where deemed appropriate by States, approaches to encourage participation in a multilateral environmental agreement, such as common but differentiated responsibilities, framework agreements (with the content of the initial agreement to be further elaborated by specific commitments in protocols), and/or limiting the scope of a proposed multilateral environmental agreement to subject areas in which there is likelihood of agreement;
 - (e) Transparency and a participatory, open-ended process.

3. Assessment of domestic capabilities during negotiations

12. Participating States could, in order to support their efforts to negotiate a multilateral environmental agreement and determine whether they would be able to comply with its provisions, assess their domestic capabilities for implementing the agreement under negotiation.

4. Compliance considerations in multilateral environmental agreements

13. The competent body of a multilateral environmental agreement could, where authorized to do so, regularly review the overall implementation of obligations under the

multilateral environmental agreement and examine specific difficulties of compliance and consider measures aimed at improving compliance.

14. States are best placed to choose the approaches that are useful and appropriate for enhancing compliance with multilateral environmental agreements. The following considerations may be kept in view:

- (a) Clarity: To assist in the assessment and ascertainment of compliance, the obligations of parties to multilateral environmental agreements should be stated clearly;
- (b) National implementation plans could be required in a multilateral environmental agreement, which could potentially include environmental effects monitoring and evaluation in order to determine whether a multilateral environmental agreement is resulting in environmental improvement;
- (c) Reporting, monitoring and verification: multilateral environmental agreements can include provisions for reporting, monitoring, and verification of the information obtained on compliance. These provisions can help promote compliance by, *inter alia*, potentially increasing public awareness. Care should be taken to ensure that data collection and reporting requirements are not too onerous and are coordinated with those of other multilateral environmental agreements. Multilateral environmental agreements can include the following requirements:

Reporting: Parties may be required to make regular, timely reports on compliance, using an appropriate common format. Simple and brief formats could be designed to ensure consistency, efficiency and convenience in order to enable reporting on specific obligations. Multilateral environmental agreement secretariats can consolidate responses received to assist in the assessment of compliance. Reporting on non-compliance can also be considered, and the parties can provide for timely review of such reports;

Monitoring: Monitoring involves the collection of data and in accordance with the provisions of a multilateral environmental agreement can be used to assess compliance with an agreement, identify compliance problems and indicate solutions. States that are negotiating provisions regarding monitoring in multilateral environmental agreements could consider the provisions in other multilateral environmental agreements related to monitoring;

Verification: This may involve verification of data and technical information in order to assist in ascertaining whether a party is in compliance and, in the event of non-compliance, the degree, type, and frequency of non-compliance. The principal source of verification might be national reports. Consistent with the provisions in the multilateral environmental agreement and in accordance with any modalities that might be set by the conferences of the parties, technical verification could involve independent sources for corroborating national data and information.

- (d) Non-compliance mechanisms: States can consider the inclusion of non-compliance provisions in a multilateral environmental agreement, with a view to assisting parties having compliance problems and addressing individual cases

of non-compliance, taking into account the importance of tailoring compliance provisions and mechanisms to the agreement's specific obligations. The following considerations could be kept in view:

- (i) The parties can consider the establishment of a body, such as a compliance committee, to address compliance issues. Members of such a body could be party representatives or party-nominated experts, with appropriate expertise on the relevant subject matter;
- (ii) Non-compliance mechanisms could be used by the contracting parties to provide a vehicle to identify possible situations of non-compliance at an early stage and the causes of non-compliance, and to formulate appropriate responses including, addressing and/or correcting the state of non-compliance without delay. These responses can be adjusted to meet varying requirements of cases of non-compliance, and may include both facilitative and stronger measures as appropriate and consistent with applicable international law;
- (iii) In order to promote, facilitate and secure compliance, non-compliance mechanisms can be non-adversarial and include procedural safeguards for those involved. In addition, non-compliance mechanisms can provide a means to clarify the content, to promote the application of the provisions of the agreement and thus lead significantly to the prevention of disputes;
- (iv) The final determination of non-compliance of a party with respect to an agreement might be made through the conference of the parties of the relevant multilateral environmental agreement or another body under that agreement, if so mandated by the conference of the parties, consistent with the respective multilateral environmental agreement.

5. Review of effectiveness

15. The conference of the parties of a multilateral environmental agreement could regularly review the overall effectiveness of the agreement in meeting its objectives, and consider how the effectiveness of a multilateral environmental agreement might be improved.

6. Compliance mechanisms after a multilateral environmental agreement has come into effect

16. Compliance mechanisms or procedures could be introduced or enhanced after a multilateral environmental agreement has come into effect, provided such mechanisms or procedures have been authorised by the multilateral environmental agreement, subsequent amendment, or conference of the parties decision, as appropriate, and consistent with applicable international law.

7. Dispute settlement provisions

17. In principle, provisions for settlement of disputes complement the provisions aimed at compliance with an agreement. The appropriate form of dispute settlement mechanism can depend upon the specific provisions contained in a multilateral environmental agreement and the nature of the dispute. A range of procedures could be considered, including good offices, mediation, conciliation, fact-finding commissions, dispute resolution panels, arbitration and other possible judicial arrangements which might be reached between concerned parties to the dispute.

E. National Implementation

1. National measures

18. Compliance assessment: Prior to ratification of a multilateral environmental agreement, a State should assess its preparedness to comply with the obligations of that agreement. If areas of potential non-compliance are identified, that State should take appropriate measures to address them before becoming a party to that agreement.
19. Compliance plan: If a State, once it becomes a party to a specific multilateral environmental agreement, subsequently identifies compliance problems, it may consider developing a compliance plan consistent with that agreement's obligations and inform the concerned secretariat accordingly. The plan may address compliance with different types of obligations in the agreement and measures for ensuring compliance. The plan may include benchmarks, to the extent that this is consistent with the agreement that would facilitate monitoring compliance.
20. Law and regulatory framework: According to their respective national legal frameworks, States should enact laws and regulations to enable implementation of multilateral environmental agreements where such measures are necessary for compliance. Laws and regulations should be regularly reviewed in the context of the relevant international obligations and the national situations.
21. National implementation plans: the elaboration of national implementation plans referred to in paragraph 14(b) for implementing multilateral environmental agreements can assist in integrating multilateral environmental agreement obligations into domestic planning, policies and programmes and related activities. Reliable data collection systems can assist in monitoring compliance.
22. Enforcement: States can prepare and establish enforcement frameworks and programmes and take measures to implement obligations in multilateral environmental agreements (chapter 2 contains guidelines for national environmental law enforcement and international cooperation in combating violations of laws implementing multilateral environmental agreements).
23. Economic instruments: In conformity with their obligations under applicable international agreements, parties can consider use of economic instruments to facilitate efficient implementation of multilateral environmental agreements.

24. National focal points: Parties may identify national authorities as focal points on matters related to specific multilateral environmental agreements and inform the concerned secretariat accordingly.
25. National coordination: Coordination among departments and agencies at different levels of government, as appropriate, can be undertaken when preparing and implementing national plans and programmes for implementation of multilateral environmental agreements.
26. Efficacy of national institutions: The institutions concerned with implementation of multilateral environmental agreements can be established or strengthened appropriately in order to increase their capacity for enhancing compliance. This can be done by strengthening enabling laws and regulations, information and communication networks, technical skills and scientific facilities.
27. Major stakeholders: Major stakeholders including private sector, non-governmental organizations, etc., can be consulted when developing national implementation plans, in the definition of environmental priorities, disseminating information and specialized knowledge and monitoring. Cooperation of the major stakeholders might be needed for enhancing capacity for compliance through information, training and technical assistance.
28. Local communities: As appropriate, parties can promote dialogue with local communities about the implementation of environmental obligations in order to ensure compliance in conformity with the purpose of an agreement. This may help develop local capacity and assess the impact of measures under multilateral environmental agreements, including environmental effects on local communities.
29. Women and youth: The key role of women and youth and their organizations in sustainable development can be recognized in national plans and programmes for implementing multilateral environmental agreements.
30. Media: The national media including newspapers, journals, radio, television and the Internet as well as traditional channels of communication, could disseminate information about multilateral environmental agreements, the obligations in them, and measures that could be taken by organizations, associations and individuals. Information could be conveyed about the measures that other parties, particularly those in their respective regions, might have taken to implement multilateral environmental agreements.
31. Public awareness: To promote compliance, parties could support efforts to foster public awareness about the rights and obligations under each agreement and create awareness about the measures needed for their implementation, indicating the potential role of the public in the performance of a multilateral environmental agreement.
32. Access to administrative and judicial proceedings: Rights of access to administrative and judicial proceedings according to the respective national legal frameworks could support implementation and compliance with international obligations.

2. Capacity-building and technology transfer

33. The building and strengthening of capacities may be needed for developing countries that are parties to a multilateral environmental agreement, particularly the least developed countries, as well as parties with economies in transition to assist such countries in meeting their obligations under multilateral environmental agreements. In this regard:
- (a) Financial and technical assistance can be provided for building and strengthening organizational and institutional capacities for managing the environment with a view to carrying forward the implementation of multilateral environmental agreements;
 - (b) Capacity-building and technology transfer should be consistent with the needs, strategies and priorities of the State concerned and can build upon similar activities already undertaken by national institutions or with support from multilateral or bilateral organizations;
 - (c) Participation of a wide range of stakeholders can be promoted, taking into consideration the need for developing institutional strengths and decision-making capabilities and upgrading the technical skills of parties for enhancing compliance and meeting their training and material requirements;
 - (d) Various funding sources could be mobilized to finance capacity-building activities aimed at enhancing compliance with multilateral environmental agreements, including funding that may be available from the Global Environment Facility, in accordance with the Global Environment Facility mandate, and multilateral development banks, special funds attached to multilateral environmental agreements or bilateral, intergovernmental or private funding;
 - (e) Where appropriate, capacity-building and technology transfer activities and initiatives could be undertaken at regional and subregional levels;
 - (f) Parties to multilateral environmental agreements could consider requesting their respective secretariats to coordinate their capacity-building and technology transfer initiatives or undertake joint activities where there are cross-cutting issues for cost-effectiveness and to avoid duplication of efforts.

F. International Cooperation

34. There is a recognized need for a commitment by all countries to the global process of protecting and improving the environment. This may be furthered by the United Nations and other relevant international organizations, as well as through multilateral and bilateral initiatives for facilitating compliance. In this regard, steps can be taken for:
- (a) Generating information for assessing the status of compliance with multilateral environmental agreements and defining ways and means through consultations for promotion and enhancement of compliance;
 - (b) Building and strengthening capacities of, and transferring technologies to, developing countries, particularly the least-developed countries, and countries with economies in transition;

- (c) Sharing national, regional and subregional experiences in environmental management;
- (d) Evaluating by conferences of the parties, in the context of their overall review of the effectiveness of their respective multilateral environmental agreement, the effectiveness of mechanisms constituted under such multilateral environmental agreements for the transfer of technology and financial resources;
- (e) Assisting in formulating guidance materials which may include model multilateral environmental agreement implementing legislation for enhancing compliance;
- (f) Developing regional or subregional environmental action plans or strategies to assist in the implementation of multilateral environmental agreements;
- (g) Fostering awareness among non-parties about the rights, benefits and obligations of becoming a party to a multilateral environmental agreement and inviting non-parties as observers to meetings of decision-making bodies under multilateral environmental agreements to enhance their knowledge and understanding of the agreements;
- (h) Enhancing cooperation among multilateral environmental agreement secretariats, if so requested by the parties to the respective multilateral environmental agreements.

II. GUIDELINES FOR NATIONAL ENFORCEMENT, AND INTERNATIONAL COOPERATION IN COMBATING VIOLATIONS, OF LAWS IMPLEMENTING MULTILATERAL ENVIRONMENTAL AGREEMENTS

Introduction

35. These guidelines recognize the need for national enforcement of laws to implement multilateral environmental agreements. Enforcement is essential to secure the benefits of these laws, protect the environment, public health and safety, deter violations, and encourage improved performance. These guidelines also recognize the need for international cooperation and coordination to facilitate and assist enforcement arising from the implementation of multilateral environmental agreements and help to establish an international level playing field.

A. Purpose

36. These guidelines outline actions, initiatives and measures for States to consider for strengthening national enforcement and international cooperation in combating violations of laws implementing multilateral environmental agreements. The guidelines can assist Governments, its competent authorities, enforcement agencies, secretariats of multilateral environmental agreements, where appropriate, and other relevant international and regional organizations in developing tools, mechanisms and techniques in this regard.

B. Scope

37. The guidelines address enforcement of national laws and regulations implementing multilateral environmental agreements in a broad context, under which States, consistent with their obligations under such agreements, develop laws and institutions that support effective enforcement and pursue actions that deter and respond to environmental law violations and crimes. Approaches include the promotion of appropriate and effective laws and regulations for responding appropriately to environmental law violations and crimes. These guidelines accord significance to the development of institutional capacities through cooperation and coordination among international organizations for increasing the effectiveness of enforcement.

C. Definitions

38. For the purpose of this chapter of these guidelines:

- (a) "Compliance" means the state of conformity with obligations, imposed by a State, its competent authorities and agencies on the regulated community, whether directly or through conditions and requirements in permits, licences and authorizations, in implementing multilateral environmental agreements;²
- (b) "Environmental law violation" means the contravention of national environmental laws and regulations implementing multilateral environmental agreements;

- (c) “Environmental crime” means the violations or breaches of national environmental laws and regulations that a State determines to be subject to criminal penalties under its national laws and regulations;
- (d) “Enforcement” means the range of procedures and actions employed by a State, its competent authorities and agencies to ensure that organizations or persons, potentially failing to comply with environmental laws or regulations implementing multilateral environmental agreements, can be brought or returned into compliance and/or punished through civil, administrative or criminal action.

D. National Enforcement

39. Each State is free to design the implementation and enforcement measures that are most appropriate to its own legal system and related social, cultural and economic circumstances. In this context, national enforcement of environmental and related laws for the purpose of these guidelines can be facilitated by the following considerations.

1. National laws and regulations

40. The laws and regulations should be:
- (a) Clearly stated with well-defined objectives, giving fair notice to the appropriate community of requirements and relevant sanctions and enabling effective implementation of multilateral environmental agreements;
 - (b) Technically, economically and socially feasible to implement, monitor and enforce effectively and provide standards that are objectively quantifiable to ensure consistency, transparency and fairness in enforcement;
 - (c) Comprehensive with appropriate and proportionate penalties for environmental law violations. These would encourage compliance by raising the cost of non-compliance above that of compliance. For environmental crime, additional deterrent effect can be obtained through sanctions such as imprisonment, fines, confiscation of equipment and other materials, disbarment from practice or trade and confiscation of the proceeds of environmental crime. Remedial costs should be imposed such as those for redressing environmental damage, loss of use of natural resources and harm from pollution and recovery of costs of remediation, restoration or mitigation.

2. Institutional framework

41. States should consider an institutional framework that promotes:
- (a) Designation of responsibilities to agencies for:
 - (i) Enforcement of laws and regulations;
 - (ii) Monitoring and evaluation of implementation;
 - (iii) Collection, reporting and analysis of data, including its qualitative and quantitative

- verification and provision of information about investigations;
- (iv) Awareness raising and publicity, in particular for the regulated community, and education for the general public;
 - (v) Assistance to courts, tribunals and other related agencies, where appropriate, which may be supported by relevant information and data.
- (b) Control of the import and export of substances and endangered species, including the tracking of shipments, inspection and other enforcement activities at border crossings, ports and other areas of known or suspected illegal activity;
- (c) Clear authority for enforcement agencies and others involved in enforcement activities to:
- (i) Obtain information on relevant aspects of implementation;
 - (ii) Have access to relevant facilities including ports and border crossings;
 - (iii) Monitor and verify compliance with national laws and regulations;
 - (iv) Order action to prevent and remedy environmental law violations;
 - (v) Coordinate with other agencies;
 - (vi) Impose sanctions including penalties for environmental law violations and non-compliance.
- (d) Policies and procedures that ensure fair and consistent enforcement and imposition of penalties based on established criteria and sentencing guidelines that, for example, credibly reflect the relative severity of harm, history of non-compliance or environmental law violations, remedial costs and illegal profits;
- (e) Criteria for enforcement priorities that may be based on harm caused or risk of harm to the environment, type or severity of environmental law violation or geographic area;
- (f) Establishing or strengthening national environmental crime units to complement civil and administrative enforcement programmes;
- (g) Use of economic instruments, including user fees, pollution fees and other measures promoting economically efficient compliance;
- (h) Certification systems;
- (i) Access of the public and civil society to administrative and judicial procedures to challenge acts and omissions by public authorities and corporate persons that contravene national environmental laws and regulations, including support for public access to justice with due regard to differences in legal systems and circumstances;
- (j) Public access to environmental information held by Governments and relevant agencies in conformity with national and applicable international law concerning access, transparency and appropriate handling of confidential or protected information;
- (k) Responsibilities and processes for participation of the appropriate community and non-governmental organizations in processes contributing to the protection of the environment;
- (l) Informing legislative, executive and other public bodies of the environmental actions taken and results achieved;

- (m) Use of the media to publicize environmental law violations and enforcement actions, while highlighting examples of positive environmental achievements;
- (n) Periodic review of the adequacy of existing laws, regulations and policies in terms of fulfilment of their environmental objectives;
- (o) Provision of courts which can impose appropriate penalties for violations of environmental laws and regulations, as well as other consequences.

3. National coordination

- 42. Coordination among relevant authorities and agencies can assist national enforcement, including:
 - (a) Coordination among various enforcement agencies, environmental authorities, tax, customs and other relevant officials at different levels of government, as well as linkages at the field level among cross-agency task forces and liaison points, which may include formal agreements such as memoranda of understanding and rules of procedure for communication, as well as formulation of guidelines;
 - (b) Coordination by government agencies with non-governmental organizations and the private sector.
 - (c) Coordination among the authorities responsible for promoting licensing systems to regulate and control the importation and exportation of illicit substances and hazardous materials, including regulated chemicals and wastes.

4. Training for enhancing enforcement capabilities

- 43. Training activities for enhancing enforcement capabilities can comprise of:
 - (a) Programmes to build awareness in enforcement agencies about their role and significance in enforcing environmental laws and regulations;
 - (b) Training for public prosecutors, magistrates, environmental enforcement personnel, customs officials and others pertaining to civil, criminal and administrative matters, including instruction in various forms of evidence, case development and prosecution, and guidance about imposition of appropriate penalties;
 - (c) Training for judges, magistrates and judicial auxiliaries regarding issues concerning the nature and enforcement of environmental laws and regulations, as well as environmental harm and costs posed by violations of such laws and regulations;
 - (d) Training that assists in creating common understanding among regulators, environmental enforcement personnel, prosecutors and judges, thereby enabling all components of the process to understand the role of each other;
 - (e) Training of environmental enforcement personnel including practical training on inspection techniques, advanced training in investigation techniques including surveillance, crime scene management and forensic analysis;
 - (f) Development of capabilities to coordinate action among agencies domestically and internationally, share data and strengthen capabilities to use information

technology for promoting enforcement;

- (g) Development of capabilities to design and use economic instruments effectively for enhancing compliance;
- (h) Development of innovative means for securing, raising and maintaining human and financial resources to strengthen enforcement;
- (i) Application of analytical intelligence techniques to grade and analyse data and provide information to assist in targeting resources on environmental criminals.

5. Public environmental awareness and education

44. Public environmental awareness and education can be increased by the following actions:
- (a) Generating public awareness and environmental education, particularly among targeted groups, about relevant laws and regulations and about their rights, interests, duties and responsibilities, as well as about the social, environmental and economic consequences of non-compliance;
 - (b) Promoting responsible action in the community through the media by involving key public players, decision-makers and opinion-builders in such campaigns;
 - (c) Organizing campaigns for fostering environmental awareness among communities, non-governmental organizations, the private sector and industrial and trade associations;
 - (d) Inclusion of awareness and environmental educational programmes in schools and other educational establishments as part of education;
 - (e) Organizing campaigns for fostering environmental awareness and environmental educational programmes for women and youth;
 - (f) Organizing campaigns for encouraging public involvement in monitoring of compliance.

E. International Cooperation and Coordination

45. Consistent with relevant provisions in multilateral environmental agreements, national enforcement of laws and regulations implementing multilateral environmental agreements could be supported through international cooperation and coordination that can be facilitated by, *inter alia*, UNEP. The following considerations could be kept in view.

1. Consistency in laws and regulations

46. States, within their national jurisdictions, can consider developing consistent definitions and actions such as penalties and court orders, with a view to promoting a common approach to environmental law violations and environmental crimes, and enhance international cooperation and coordination, for environmental crimes with transboundary aspects. This may be facilitated by:
- (a) Environmental laws and regulations that provide appropriate deterrent measures,

- including penalties, environmental restitution and procedures for confiscation of equipment, goods and contraband, and for disposal of confiscated materials;
- (b) Adoption of laws and regulations, implemented and applied in a manner that is consistent with the enacting state's international obligations, that make illegal the importation, trafficking or acquisition of goods, wastes and any other materials in violation of the environmental law and regulations;
 - (c) Appropriate authority to make environmental crime punishable by criminal sanctions that take into account the nature of the environmental law violation.

2. Cooperation in judicial proceedings

47. Cooperation between and amongst states in judicial proceedings may be facilitated by:
- (a) Cooperation in judicial proceedings and procedures related to testimony, evidence and similar matters, including exchange of information, mutual legal assistance and other co-operative arrangements agreed between the concerned countries;
 - (b) Developing appropriate channels of communication with due respect for the various systems in place in different states, for timely exchange of information relevant to the detection of environmental law violations as well as pertaining to the judicial process.

3. Institutional framework

48. States can consider the strengthening of institutional frameworks and programmes to facilitate international cooperation and coordination in the following ways:
- (a) Designation and establishment of channels of communication and information exchange among UNEP, the secretariats of multilateral environmental agreements, the World Customs Organization and relevant intergovernmental entities, research institutes and non-governmental organizations, and international law enforcement agencies such as the International Criminal Police Organization (Interpol) especially through its "Green Interpol" activities;
 - (b) Strengthening measures to facilitate information exchange, mutual legal assistance and joint investigations with other enforcement entities with the objective of strengthening and promoting greater consistency in laws and practices;
 - (c) Development of infrastructure needed to control borders and protect against illegal trade under multilateral environmental agreements, including tracking and information systems, customs codes and related arrangements, as well as measures that could help lead to identification of illegal shipments and prosecution of offenders;
 - (d) Development of technology and expertise to track suspect shipments, accompanied by information on specific production sources, the import and export of regulated chemicals and wastes, licensing systems, customs and enforcement data;
 - (e) Strengthening mechanisms to facilitate information exchange regarding verification

of illegal shipments and coordinating procedures for storing, processing and returning or destroying confiscated illegal shipments, as well as development of confidential channels, subject to domestic laws, for communicating information regarding illegal shipments;

- (f) Designation of appropriate national and international points of contact to be forwarded to the UNEP enforcement database;
- (g) Facilitation of transborder communications between agencies, considering that States may designate responsibility on the same subject to different agencies, such as customs, police or wildlife officials;
- (h) Establishment of regional and subregional programmes providing opportunities for sharing information and strengthening training for detecting and prosecuting environmental crimes;
- (i) Allocation of adequate resources to support the effective enforcement and effective implementation of policies.

4. Capacity-building and strengthening

49. Developing countries, particularly the least developed countries, and countries with economies in transition, require the building and strengthening of capacities for enforcement. It is recognized that environmental enforcement may be affected by conditions of poverty and governance that need to be addressed through appropriate programmes. The following measures can be considered for building and strengthening capacities for enforcement:
- (a) Coordinated technical and financial assistance to formulate effective laws and regulations and to develop and maintain institutions, programmes and action plans for enforcement, monitoring and evaluation of national laws implementing multilateral environmental agreements;
 - (b) Development of specific guidelines with reference to particular agreements for law enforcement officers to conduct operations, investigations and inspections, and procedures for reporting and processing information nationally and internationally;
 - (c) Formulation of programmes for coordinating compliance and enforcement actions including compliance promotion, with other States;
 - (d) Use of regional and sub-regional centres and workshops to provide opportunities for sharing information and experiences and for cost-effective and long-term training programmes;
 - (e) Participation in international meetings, courses and training programmes, as well as in regional and global networks to facilitate sharing information and access to implementation and training materials.

ANNEX II

Background Note on Development of the Guidelines

The Guidelines arose from decision 17/25 of the UNEP Governing Council (GC) in May of 1993. This decision adopted the Programme for the Development and Periodic Review of Environmental Law (referred to as Montevideo II). Montevideo II emphasized the need to promote effective implementation of international legal instruments related to the environment. This priority was reinforced during a mid-term review meeting in December 1996 and endorsed by UNEP's GC decision 19/20 of 1997.

In April 1998, G-8 Environment Ministers, at a meeting in Leeds, U.K., recognised the serious environmental effects of MEA violations, and stated the need also to combat organised crime in this area. The G-8 agreed to support the implementation of existing MEAs, with the work to be initiated with CITES, the Montreal Protocol, and the Basel Convention on Hazardous Wastes.

In this context, preliminary elements of the draft Guidelines were prepared by UNEP in 1999. These were reviewed by a Working Group of Experts on Compliance and Enforcement of Environmental Conventions at Geneva from 13-15 December 1999. The experts decided that the Guidelines should be split into two sets, one related to compliance and the other related to enforcement and environmental crime. The drafts were submitted to Governments for review and comments, wherein governments recognised the need for continuous work on issues of compliance, enforcement and environmental crime.

Governments emphasised that the Guidelines be non-binding and voluntary in nature. The need for transparency and information flow was underlined. The establishment of mechanisms such as common reporting formats, timely reporting, and public access to information was emphasised. The value and importance of international cooperation and coordination in combating environmental crime was recognised, and different ways of achieving results in this area were suggested.

Important lessons from studies of three MEAs and the extent of illegal trade were available, though problems were envisaged in other areas, such as chemicals. In the G-8 Environment Ministers meeting, in Otsu, Shiga in Japan in April 2000, the commitment was reiterated to support compliance, implementation, and enforcement. The Ministers further acknowledged that developing countries and countries with economies in transition needed external assistance in this regard.

To maintain momentum, compliance and enforcement was accorded a high degree of attention in the 2000-2001 programme of activities at UNEP in the field of environmental law. It is notable that the Ministerial Declaration from the first Global Ministerial Environment Forum held at Malmö, Sweden, in May 2000 also identified compliance and enforcement of MEAs as a crucial issue.

In October 2000, the Nairobi meeting of government experts prepared a new Programme for the Development and Periodic Review of Environmental Law for the first decade of the 21st century. The Programme, which included implementation, compliance and enforcement of environmental law, both international and national, was reviewed and

endorsed by the UNEP GC in February 2001 in decision 21/27, pursuant to which the draft Guidelines were given their final shape.

Further exchange of views on the draft text of the Guidelines was accomplished through two advisory group meetings held in Nairobi on 13-15 November 2000 and in Geneva on 27-29 August 2001. MEA secretariats also participated. Inputs from these meetings were used to prepare the final text of the Guidelines. An intergovernmental working group of experts was subsequently constituted in which the participation of all Governments was invited. 78 Governments were represented at the meeting, which took place at Nairobi on 22-26 October 2001. This meeting finalized the Guidelines, which were adopted by the UNEP GC in February 2002, through UNEP Special Session (SS) Decision VII/4.

When adopting the Guidelines, the UNEP GC sought to disseminate the Guidelines to Governments, MEA secretariats, and international organisations. The GC further sought to implement the Guidelines through the UNEP work programme, in close collaboration with States and international organisations. UNEP was asked to take steps for advancing capacity building and strengthening of developing countries, particularly the least developed countries and countries with economies in transition. Pursuant to the GC decision, work was initiated for the preparation of this compliance and enforcement Manual.

ANNEX III

Finding Information on Specific Multilateral Environmental Agreements

As noted in the introduction to this Manual, the Manual seeks to provide tools on how to better negotiate, ratify, implement, and enforce MEAs. Many of the examples relate to experiences with specific MEAs. However, the Manual does not attempt to provide background on the requirements, institutions, or details of specific MEAs. This Annex highlights some of the ways in which individuals can obtain information on a specific MEA or group of MEAs.

The most reliable source of information on an MEA is the **MEA Secretariat**. The first place to start is the Secretariat's web page, which often includes the text, additional instruments (such as protocols), Parties, ratification status, and related documentation. A number of Secretariats have developed handbooks, guidance, or other resources, and these are often available on the Secretariat web pages or can be requested from the Secretariat. These guidance documents range from basic primers to detailed manuals. Secretariats are also the best source of information on deadlines and requirements of the MEA. The contact details (including web pages) for many of the Secretariats are found in Annex IV, immediately following this Annex.

Various relevant **Internet and print resources** are listed in Annexes VII and VI, respectively. Two Internet resources bear particular mention for their comprehensive nature: ECOLEX (<http://www.ecolex.org>) and FAOLEX (<http://faolex.fao.org/faolex/>) have extensive, searchable databases of MEAs as well as national legislation that implements MEAs. UNEP.Net (<http://www.unep.net>) also has an extensive collection of information that includes MEAs as well as a significant amount of supporting information.

In addition to providing a range of information on MEAs, there are a number of Internet and print resources that have collected information on how judges have addressed issues relating to MEA implementation and enforcement (including enforcement of legislation implementing MEAs). These include:

- The UNEP/IUCN Judicial Portal (<http://www.iucn.org/portal/elc/>)
- Compendia of judicial decisions (for more information on UNEP's 4-volume compendium, see <http://www.unep.org/padelia/>)

Finally, to find out whether and how another State has addressed a particular MEA, Internet and on-line directories can provide contact information for relevant individuals and agencies. Such directories include, for example:

- the list of national focal points for the particular MEA (maintained by the MEA Secretariat);
- membership directories (for example of the IUCN Commission on Environmental Law, which is available to members in print and Internet versions); and
- commercial directories (such as the Conservation Directory, produced annually by the National Wildlife Federation and is available in print or on the Internet (<http://www.nwf.org/conservationdirectory/>))

In addition, the case studies in this Manual often provide contact information for governmental and non-governmental sources of further information on the particular topic.

Annex IV

Compliance with and Enforcement of MEAs in Small Island Developing States (SIDS)

While each State is unique and faces its own challenges in negotiating, implementing, and enforcing MEAs, small island developing states (SIDS) face particular challenges due to their often dramatic economic, personnel, institutional, and geographic limitations.

SIDS face scarcities of resources in many regards. This presents major challenges to implementing MEAs. Human resources are already strained in many countries, and it may seem as though they could never have enough personnel or money to get the job done. It is necessary, therefore, to examine various methods that can be used to facilitate negotiation, implementation, and enforcement of MEAs. In many cases, it is possible to re-work or re-allocate the resources that are already available. By cross-training or broadly authorizing officers, more enforcement personnel can be brought to bear. Strengthening regional analytical laboratories, such as CEHI or CARIRI, can provide greatly added capacity with a modest contribution from each member nation.

At the same time, the unique size and capacity of SIDS can be used beneficially, for example in sharing information between agencies and persons. The smallness of SIDS provides for easier access to decisionmakers, and environmental advocates and regulators can seek opportunities to engage them in the environmental debate that would not be possible in larger countries with larger bureaucracies.

Some MEAs are better implemented and enforced regionally. This applies both to the development of legislation and to policing. Experiences in a region, such as the Caribbean, can be easily exchanged by cultivating the media to report on what is taking place in each of the region's countries.

Networking

Due to the limited size and capacity of government agencies, networking is particularly important for SIDS. Through networking, SIDS are able to pool their resources for developing, implementing, policing, and enforcing environmental laws and MEAs. Some of these approaches are highlighted below. In addition, Guidelines 34(c), 44, and 49(e) discuss various networking approaches, including a case study on the Caribbean Environmental Reporters Network (CERN) following Guideline 44.

Joint Negotiating Strategy

The scope of MEAs touches on a wide range of subject matter — economic, social, political, and technical — and ultimately requires a specialist. In the early 1990s, the simultaneous negotiation of the United Nations Conference on Environment and Development, the UNFCCC, and the CBD, required significant levels of effort, which none of the Caribbean countries could service adequately on their own due to a lack of resources, both human and financial. Delegates had to become resourceful.

They developed a response that essentially allocated each Caribbean State representative the responsibility for a specific subject area according to that person's own area of competence and thus established the Regional Task Force on Environment & Development. This arrangement was quite successful. The Conference on Small Island States was secured, regional interests in the Conventions were identified in the Conference, and Convention texts and the Caribbean representatives earned the respect of the international community as capable negotiators. While it remains *ad hoc*, the Task Force has proceeded to negotiate the SIDS Conference and the 2002 World Summit on Sustainable Development.

Legal Drafting Style

Environmental management is still relatively new to the Caribbean. Traditional drafting styles do not provide for detailed preambles or the inclusion of environmental principles within the legislation. Given the newness of environmental management, some countries (such as Trinidad & Tobago and Guyana) are encouraging legal draftsmen to exercise some liberty in introducing preambles that are more expansive and thereby guide the interpretation of environmental law. Moreover, using simple language in a law's text makes it user-friendly and can help enforcement officers who work with them.

Harmonised National Legislation

OECS countries have a long tradition of developing and using harmonised legislation on many subject matters. The provisions of the MARPOL Convention require participating countries to enact national implementing legislation. Under the OECS Ship-Generated Waste Project, the provisions of the legislation including the regime of fines and penalties were harmonized among the participating countries. This process was useful because many OECS countries have limited resources to devote to drafting legislation, and in this project they could pool their resources. Moreover, it also helped in enforcement of the provisions since ships that called at ports in OECS countries now all face the same penalties for the same offences in every State.

Clustering MEAs in National Legislation

There is growing interest in SIDS about the possibility of combining (or "clustering") the requirements of related MEAs to the extent possible within a single piece of national implementing legislation. For example, Trinidad & Tobago has considered how to implement RAMSAR, SPAW, and CBD within a single law. Similarly, Tonga is contemplating a single law that would implement the Montreal Protocol and the Basel, POPS, and PIC Conventions.

Model National Legislation

The Caribbean has used model legislation regionally in a few instances. The USAID/PAHO Project on Food Safety and Animal Health is a good example. The participating countries are Antigua & Barbuda, Barbados, Dominica, Grenada, St. Lucia, St. Kitts, and St. Vincent & the Grenadines. The project seeks to introduce implementing provisions of the WTO/Sanitary and Phytosanitary Standards Agreement in national legislation. A draft model law was prepared and national consultations were held in each of the participating

countries to refine the model legislation. The use of model legislation was also successful for the World Bank/IMO Wider Caribbean Initiative on Ship-Generated Waste Project, where a similar approach was applied.

The components of these projects go beyond the drafting of legislation, and include a consulting effort. It is designed to include the enforcement officials at every stage of the legislative process through the hosting of national consultations which are attended by the key stakeholders. These national consultations include open discussions to clarify the priorities for the regulatory framework, including the relationship, needs, responsibilities, and functions that are required between the agencies; and the openness fosters a sense of ownership and understanding of the enforcement programme. With relevant stakeholders present face-to-face, difficult aspects are ironed out early in the process, and the strengths and weaknesses of each agency are made known. This, in turn, establishes a better working relationship among them at the initial stages. For example, at one of the national consultations in the Caribbean, the Police recommended that legislation should specifically indicate the areas in which the assistance of the police is required, as it is a tendency (where they are already overburdened) for them to construe that the police are not required to enforce environmental laws.

The applicability of model legislation approaches depends to a large extent on the countries having similar legal, institutional, economic, and cultural contexts. Accordingly, the approaches pursued in the Caribbean — particularly the Eastern Caribbean — might not be as effective in other regions, such as the Pacific, which has diverse legal systems, economies, and geographic size.

Preparation of Regulations

The regulations provide the important details to make operational the laws designed to implement an MEA. Historically, the implementation of national legislation to enforce MEAs may be delayed even after the laws are adopted; one common way in which this occurs is by the failure to promulgate the necessary regulations. The means by which regulations are enacted plays a significant part in the enforcement package, and participatory processes are important (but often rare). Again the USAID/PAHO Project is relevant. The project output includes the preparation of regulations with the intention that both the enabling Act and the regulations will be introduced into the Parliament simultaneously.

Coordination among National Agencies

The institutional framework for enforcement of environmental laws plays an important role in the success of an enforcement programme. In Guyana, Jamaica, and Trinidad & Tobago, the enabling legislation for environmental management has established coordinating agencies as focal points for environmental matters and gives them the lead on the subject. However, the line agencies still retain responsibility for the enforcement of a considerable share of the laws.

Caribbean nations (including Trinidad & Tobago and Guyana) are starting to utilize MOUs between agencies to ensure consistent priorities in the discharge of environmental enforcement activities. Under an MOU executed between the focal point/coordinating agency and a line agency, an Environment Officer is appointed in the line agency and given the responsibility for maintaining the programme, priorities, and activities of the coordinating

agency as it pertains to the responsibilities of the line agency. The weakness is that unless the implementation of the agreement is closely monitored, the arrangements can lapse and the benefits of a comprehensively executed programme are not fully derived.

In St. Kitts & Nevis, the authorities were facing only limited success in prosecuting offenders for exporting conch and lobster, and they had to consider a preventive enforcement mechanism. To give effect to this, the Ministry of Agriculture, Police, and Customs and Excise executed an MOU to enhance collaboration among the agencies generally and specifically to prevent the export conch and lobster by anyone without first having obtained a license. Through this “pooling of efforts” towards enforcement, the authorities saw significantly more success.

Policing

The general philosophy for policing and enforcement in SIDS is often shaped by the geographical nature of SIDS. SIDS are small places (by definition) and are often geographically isolated. Everyone tends to know everyone else, and it can be unwise to make enemies. Accordingly, enforcement is often used judiciously and as a last resort.

Due to their limited financial resources and enforcement personnel, the OECS countries have started to police their waters jointly. This joint policing is facilitated through an agreement, which is also underpinned by the harmonization of penalties in the legislative provisions of each of the participating countries.

Standing to Sue

To expand the limited enforcement resources available, a number of SIDS recently broadened the concept of legal standing to sue. In order to bring an action for review, an applicant must demonstrate that she possesses sufficient interest in the matter to which the application relates. Traditionally, Caribbean courts have adopted a restricted interpretation of this standing requirement. Trinidad & Tobago and Guyana have responded to this by including provisions in their environmental statutes guaranteeing private citizen suits. The draft Environmental Management Act of Antigua & Barbuda has also adopted this progressive approach. By allowing citizens to sue to enforce the environmental laws, government agencies are more able to focus their resources on specific instances, while also knowing that the public will bring more parties into compliance.

Guidelines on MEA Implementation

In 1999, the Caribbean Community (CARICOM) developed Guidelines for MEA Implementation. While the Guidelines were developed for the Caribbean, SIDS around the world may find their insights and approaches relevant. As with the UNEP Guidelines upon which this Manual is based, the CARICOM Guidelines address the different stages of MEA implementation:

- Environmental Treaty Making
- The Ratification Process
- Passage of Enabling or Implementing Legislation
- The Technical Focal Point: the National Implementing Agency
- Resources and Project-Based Activity

For each stage, the Guidelines include a checklist. The CARICOM Guidelines can be found at <http://www.pnuma.org/foroalc/esp/bbexb07i-MEAImplementationintheCaribbean.pdf>

Emerging Issues in Compliance and Enforcement

In addition to the considerations outlined above, a few issues are gaining prominence as SIDS seek to strengthen their compliance with and enforcement of MEAs. These include:

- Improving the understanding of public officials and of the general public regarding MEA benefits and costs in SIDS. This could include, for example, consolidation of MEA goals and requirements so that it is easier to understand what SIDS need to do.
- Developing new approaches to MEA obligations that account for the unique challenges and context of SIDS.
- Streamlining reporting requirements for individual MEAs, including the possibility of developing a single national report that satisfies the reporting requirements for multiple, related MEAs.
- Developing legislation that implements a cluster of related MEA obligations at once.
- Increased financial and technical assistance — particularly at the national and regional levels — to improve compliance and enforcement. For example, some SIDS have highlighted the assistance provided to implement the Ozone Conventions as an approach that could inform the implementation of other MEAs.



Additional Resources For SIDS Implementing MEAs

This Manual includes many examples of how SIDS have sought to improve compliance with and enforcement of MEAs. Many of the case studies from developing country also may be relevant.

The United Nations has documented success stories on sustainable development in SIDS, and the case studies are available at <http://www.sidsnet.org>

UNEP's Global Environment Outlook (GEO) includes a section devoted to SIDS. The GEO project also has published a series of SIDS-specific reports, including those for: Atlantic and Indian Ocean SIDS, Caribbean SIDS, and Pacific Island SIDS. These reports are available at <http://www.unep.org/geo/>

In addition, there are a number of experts in compliance with and enforcement of MEAs in SIDS. These include:

Winston Anderson wanderson@uwichill.edu.bb or wanderson@caribsurf.com (Caribbean)

Judy Daniel Judidani@aol.com (Caribbean)

Winston McCalla wcmc@cwjamaica.com (Caribbean)

Isabel Martinez i.martinez@unep.nl or Rossana Silva Repetto r.silva@unep.nl, UNEP/GPA (SIDS and Regional Seas)

Annex V

List of Relevant Contacts

This Annex provides a list of international, regional and non-governmental organisations relevant to compliance and enforcement (C&E) of environmental laws and multilateral environmental agreements (MEAs). The contact list is not exhaustive.

International Organisations

International Maritime Organization (IMO)

4 Albert Embankment
London
SE1 7SR
United Kingdom
Tel: +44-(0)20-7735-7611
Fax: +44-(0)20-7587-3210
Email: info@imo.org
Web: <http://www.imo.org>

United Nations Institute for Training and Research (UNITAR)

UNITAR Palais de Nations
CH-1211 Geneva
Switzerland
Tel: +41-22-917-
Fax: +41-22-917-8047
Web: <http://www.unitar.org>

United Nations University (UNU)

53-70 Jingumae 5-chome
Shibuya-ku, Tokyo 150-8925
Japan
Tel: +81-3-3499-2811
Fax: +81-3-3499-2828;
Email: mbox@hq.unu.edu
Web: <http://www.unu.edu>

United Nations Environment Programme (UNEP)

UNEP Headquarters¹

P.O. Box 30552
Nairobi 00100, Kenya
Tel: +254-20-7621234
Fax: +254-20-7623927 /762923917
Telex: 22068 / 22173
Email: info@unep.org
Web: <http://www.unep.org>²

UNEP Divisions and Branches³

• **Division of Early Warning and Assessment (DEWA)**

Tel: +254-20-7624028
Fax: +254-20-7623943
Email: dewa.director@unep.org
Early Warning; Environmental Assessment.

1 All UNEP Divisions are located at UNEP Headquarters with the exception of DTIE.

2 Internet access to all UNEP Divisions and additional e-mail addresses are available from the UNEP web site <http://www.unep.org>

3 Divisional list compiled according to the UNEP Operational Manual (available from UNEP, Chief Programme Coordination and Management Unit, P.O. Box 30552, Nairobi 00100, Kenya). Branches and units located outside UNEP Headquarters are listed under UNEP Outposted Offices and Collaborating Centres, below.

• **Division of Policy Development and Law (DPDL)**

Tel: +254-20-7623835

Fax: +254-20-7624324

E-mail: Kilaparti.Ramakrishna@unep.org;

Iwona.Rummel-Bulska@unep.org

Policy Analysis, Development and Partnerships; Environmental Law; Policy Coordination and Inter-Agency Affairs; International Environmental Governance.

• **Division of Environmental Policy Implementation (DEPI)**

Tel: +254-20-7623508

Fax: +254-20-7624249

Email: depiinfo@unep.org

Capacity Building; Global

Programme of Action for The Protection

of the Marine Environment (GPA);

Disaster Management; Implementation of Environmental Law.

• **Division of Technology, Industry and Economics (DTIE)**

39-43 Quai André Citroën

75739 Paris Cedex 15

France

Tel: +33-1-4437-1450

Fax: +33-1-4437-1474

Email: unep.tie@unep.fr

Web: <http://www.unep.fr>

International Environmental Technology

Centre (IETC); Production and

Consumption; Chemicals; Energy; Ozone

Action; Economics and Trade.

• **Division of Regional Cooperation (DRC)**

Tel: +254-20-7623727

Fax: +254-20-7624270

Email: cristina.boelcke@unep.org

Regional Offices: Africa; Europe; Asia and the Pacific; West Asia; Latin America and the Caribbean; North America.

• **Division of Environmental Conventions (DEC)**

Tel: +254-20-7623494

Fax: +254-20-7624300

Email: dec@unep.org

Support to implementation, compliance with, and enforcement of environmental conventions, and facilitation of synergies and interlinkages among them.

• **Communications and Public Information (DCPI)**

Tel: +254-20-7623293

Fax: +254-20-7623927 / 692

Email: dcpinfo@unep.org, unepinfo@unep.org

Media Services; Audio-visual and

Graphics; Outreach and Special Events;

Children and Youth/Sports and the

Environment; Library and Documentation;

Publishing.

• **Division of Global Environment Facility Coordination (DGEF)**

Tel: +254-20-7624165

Fax: +254-20-7624041

Email: gefinfo@unep.org

Biodiversity/Biosafety; International Waters;

Persistent Toxic Substances; Climate

Change/Ozone Depletion; Medium Six

Projects; Scientific and Technical Advisory

Panel (STAP) Secretariat.

UNEP Regional Offices

• **Regional Office for Africa (ROA)**

P.O. Box 30552

Nairobi 00100, Kenya

Tel: +254-20-7624284

Fax: +254-20-7623928

Email: sekou.toure@unep.org

• **Regional Office for Europe (ROE)**

15, Chemin des Anémones

1219 Chatelaine

Geneva, Switzerland

Tel: +41-22-917-8291 / 8276

Fax: +41-22-797-3420

Email: frits.schlingemann@unep.ch

• **Regional Office for Asia and the Pacific (ROAP)**

United Nations Building
Rajdamnern Nok Avenue
Bangkok 10200, Thailand
Tel: +66-2-281-6101 / 288-1870
Fax: +66-2-280-3829
Email: asvathitanonta@un.org

• **Regional Office for West Asia (ROWA)**

P.O. Box 10880
Manama, State of Bahrain
Tel: +973-826-600
Fax: +973-825-110 / 111
Email: uneprowa@unep.org.bh

• **Regional Office for Latin America and the Caribbean (ROLAC)**

Boulevard de los Virreyes No. 155
Col. Lomas Virreyes, AP 10793
11000 Mexico, D.F.
Mexico
Tel: +52-55-5502-7529 / 7493 / 4000
Fax: +52-55-5502-0950
Email: ricardo.sanchez@rolac.unep.mx

• **Regional Office for North America (RONA)**

UNEP
1707 H St. NW, Suite 300
Washington, D.C. 20006
United States of America
Tel: +1-202-785-0465
Fax: +1-202-785-2096
Email: brennan.vandyke@rona.unep.org

UNEP Outposted Offices and Collaborating Centres

(including UNEP Branches and Units located outside their Divisions)

• **UNEP Collaborating Centre on Energy and Environment (UCCEE)**

Risoe National Laboratory, Bldg. 142
Frederiksborgvej 399
P.O. Box 49
DK 4000 Roskilde
Denmark
Tel: +45-46-32-22-88

Fax: +45-46-32-19-99
Email: John.Christensen@risoe.dk
Web: <http://www.uccee.org>

• **UNEP-DEC Information Unit for Conventions (Geneva)**

15, Chemin des Anémones
1219 Chatelaine
Geneva, Switzerland
Tel: +41-22-917-8244
Fax: +41-22-797-3464
Email: michael.williams@unep.ch

• **UNEP-DEPI Post Conflict Branch (PCoB)**

11-13, Chemin des Anémones
1219 Chatelaine
Geneva, Switzerland
Tel: +41-22-917-8598
Fax: +41-22-917-8064
Email: postconflict@unep.ch

• **UNEP/GRID-Arendal**

Longum Park, Service Box 706
N-4808 Arendal
Norway
Tel: +47-3703-5650
Fax: +47-3703-5050
Email: grid@grida.no
Web: <http://www.grida.no>

• **UNEP/GRID-Geneva**

International Environment House
11, Chemin des Anémones
1219 Chatelaine
Geneva, Switzerland
Tel +41-22-917-8294 / 95
Fax: +41-22-917-8029
Email: infor@grid.unep.ch
Web: <http://www.grid.unep.ch>

• **UNEP/GRID-Sioux Falls**

USGS EROS Data Center
47914 252nd Street
Sioux Falls, SD 57198-0001
United States of America
Tel: +1-605-594-6117
Fax: +1-605-594-6119
Email: infor@www.na.unep.net
Web: <http://www.na.unep.net/index.php3>

• **International Environmental Technology Centre (IETC)**

2-110 Ryokuchi Koen
Tsurumi-ku
Osaka 538-0036
Japan
Tel: +81-6-6915-4581
Fax: +81-6-6915-0304
Email: ietc@unep.or.jp

• **UNEP DTIE Chemicals Branch**

International Environment House
11-13, Chemin Des Anémones
1219 Chatelaine
Geneva, Switzerland
Tel: +41-22-917-8111
Fax: +41-22-797-3460
Email: chemicals@unep.ch, unepinfo@unep.org

• **UNEP DTIE Economics and Trade Branch**

International Environment House
11-13, Chemin Des Anémones
1219 Chatelaine
Geneva, Switzerland
Tel: +41-22-917-8298
Fax: +41-22-917-8076
Email: etb@unep.ch, unepinfo@unep.org

• **UNEP DTIE Energy & OzonAction Branch (implementation of Montreal Protocol)**

39-43, quai Andre Citroen
75739 Paris Cedex 15
France
Tel: +33-1-44-37-14-50
Fax: +33-1-44-37-14-74
Email: ozonaction@unep.fr
Web: <http://www.uneptie.org/ozonaction>

• **Global Programme of Action**

UNEP-DEPI
P.O. Box 16227
2500 BE The Hague
The Netherlands
Tel: +31-70-311-4460 / 1
Fax: +31-70-345-6648
Email: gpa@unep.nl

• **UNEP World Conservation Monitoring Centre (UNEP-WCMC)**

219 Huntingdon Road
Cambridge CB3 0DL
United Kingdom
Tel: +44-1223-277314
Fax: +44-1223-277136
Web: <http://www.unep-wcmc.org>

• **Global International Waters Assessment (GIWA)**

SE - 391 82 Kalmar
Sweden
Tel: +46-480-44-73-53
Fax: +46-480-44-73-55
Email: info@giwa.net
Web: <http://www.giwa.net>

• **Joint Secretariat of the International Coral Reef Initiative (ICRI)**

Philippines:
Department of Environment and Natural Resources (DENR)
2nd Floor, FASPO Building, DENR Compound
Visayas Ave.
Diliman, Quezon City
Philippines
Tel: +632-928-1215
Fax: +632-928-1225

Sweden:
Stockholm International Water Institute
Sveavagen 59
SE-113 59 Stockholm
Sweden
Tel: +46-8-522-13979
Fax: +46-8-522-13961
Email: secretariat@icriforum.org or
Cri_secretariat@hotmail.com

Convention Secretariats

- **Secretariat of the Convention on Biological Diversity (CBD)**

393 St Jacques Street, Office 300
Montreal, Quebec
Canada H2Y 1N9

Tel: +1-514-288-2220

Fax: +1-514-288-6588

Email: secretariat@biodiv.org

Web: <http://www.biodiv.org>

- **Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)**

International Environment House
Chemin des Anémones
CH-1219 Chatelaine

Geneva, Switzerland

Tel: +41-22-917-8139 / 40

Fax: +41-22-797-3417

Email: cites@unep.ch

Web: <http://www.cites.org>

- **Secretariat of the Multilateral Fund for the Implementation of the Montreal Protocol**

27th Floor

1800 McGill College Avenue

Montréal, Quebec, Canada H3A 3J6

Tel: +1-514-282-1122

Fax: +1-514-282-0068

Email: secretariat@unmfs.org

Web: <http://www.multilateralfund.org>

- **Secretariat of the Vienna Convention and the Montreal Protocol (Ozone Secretariat)**

Located at UNEP Headquarters (in Nairobi)

Tel: +254-20-7623851

Fax: +254-20-7623601 / 7623913

Email: ozoneinfo@unep.org

Web: <http://www.unep.org/ozone>

- **Secretariat of the Convention on the Conservation of Migratory Species of Wild Animals (CMS)**

Hermann-Ehlers Strasse 10

53113 Bonn

Germany

Tel: +49-228-815-2401 / 2

Fax: +49-228-815-2449

Email: secretariat@cms.int

Web: <http://www.cms.int>

- **Secretariat of UN Framework Convention on Climate Change (UNFCCC)**

Haus Carstanjen

Martin-Luther-King-Strasse 8

53175 Bonn, Germany

Tel: +49-228-815-1000

Fax: +49-228-815-1999

Email: secretariat@unfccc.int

Web: <http://unfccc.int>

- **Secretariat of the Rotterdam Convention on the Prior Informed Consent (PIC) Procedure for Certain Hazardous Chemicals and Pesticides in International Trade**

International Environment House

11-13, Chemin des Anémones

CH-1219 Chatelaine

Geneva, Switzerland

Tel: +41-22-917-8111

Fax: +41-22-797-3460

Email: pic@unep.ch

Web: <http://irptc.unep.ch/pic>

- **Secretariat of the Rotterdam Convention on the Prior Informed Consent (PIC) Procedure for Certain Hazardous Chemicals and Pesticides in International Trade**

Plant Protection Service, Plant Production and Protection Division

Food and Agriculture Organization of the United Nations (FAO)

Viale delle Terme di Caracalla

00100 Rome

Italy

Tel: +39-06-5705-3440

Fax: +39-06-5705-6347

Email: pic@fao.org

• **Secretariat of the Stockholm Convention on Persistent Organic Pollutants (POPs)**

International Environment House
11-13, Chemin des Anémones
1219 Chatelaine
Geneva, Switzerland
Tel: +41-22-917-8111
Fax: +41-22-797-3460
Email: pops@unep.ch
Web: <http://www.pops.int>

Switzerland
Tel: + 41 22 917 4226
Fax: + 41 22 907 0107
Email: public.participation@unece.org
Web: <http://www.unece.org/env/pp>

• **Secretariat of the Basel Convention**

International Environment House
11-13, Chemin des Anémones
Building D 1219 Chatelaine
Geneva, Switzerland
Tel: +41-22-917-8218
Fax: +41-22-797-3454
Email: sbc@unep.ch
Web: <http://www.basel.int>

• **UNEP-Vienna Interim Secretariat of the Carpathian Convention**

Room D0426
Vienna International Centre
P.O. Box 500
A 1400 Vienna
Austria
Tel: +43-1-26060-4545
Fax: +43-1-26060-7-4545
Email: unep@unvienna.org
Web: <http://www.carpathianconvention.org>

• **Secretariat of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention)**

United Nations Economic Commission for Europe
Environment and Human Settlements
Division
Palais des Nations
1211 Geneva

Global Environment Facility (GEF)

GEF Secretariat
1818 H Street, NW
Washington, DC 20433
United States of America
Tel: +1-202-473-0508
Fax: +1-202-522-3240 / 3245
Email: secretariatofgef@worldbank.org
Web: <http://www.gefweb.org/>

United Nations Development Programme (UNDP)

Bureau for Development Policy
Energy and Environment Group
304 East 45th Street, 9th Floor
New York, NY 10017
United States of America
Tel: +1-212-906-906-6011
Email: alvaro.umana@undp.org, iyad.abu-moghli@undp.org
Web: <http://www.undp.org/energyandenvironment/>

World Bank

ESSD Advisory Service
The World Bank
1818 H Street, NW
Washington, DC 20433
United States of America
Tel: +1-202-477-3773
Fax: +1-202-477-6391
Email: eadvisor@worldbank.org (for EA-specific inquiries)
Web: <http://www.worldbank.org>

Regional Development Banks

• African Development Bank

Environment and Sustainable Development (OESU)
01 BP 1387 Abidjan 01
Cote d'Ivoire
Tel: +225 20 41 26
Fax: +225 20 50 33
Email: comuadb@afdb.org
Web: <http://www.afdb.org>

• Asian Development Bank

Office of Environment and Social Development (OESD)
P.O. Box 789
0980 Manila
The Philippines
Tel: +632-636-4444
Fax: +632-636-2444
Email: information@adb.org
Web: <http://www.adb.org>

• Caribbean Development Bank

Office of Environment and Social Development (OESD)
P.O. Box 408
Wilkey
St. Michael
Barbados, W.I.
Tel: +206-431-1600
Fax: +206-426-7269
Email: info@caribank.org
Web: <http://www.caribank.org>

• European Bank for Reconstruction and Development

European Bank for Reconstruction and Development
One Exchange Square
London EC 2A 2JN
England
Tel: +44-20-7338-6000
Fax: +44-20-7338-6100
Email: harrisob@ebrd.com
Web: <http://www.ebrd.com>

• Inter-American Development Bank

Inter-American Development Bank
Environment Division
Sustainable Development Department
1300 New York Avenue NW
Stop W 500
Washington, DC 20577
United States of America
Tel: +1-202-623-1795
Fax: +1-202-623-1786
Email: waltera@iadb.org
Web: <http://www.iadb.org/>

International NGOs, Networks, and Institutions

The following international and regional NGOs, networks, and institutions undertake activities that promote effective compliance and enforcement of domestic environmental laws and international environmental agreements.

Africa Law Institute

240 Sparks Street
P.O. Box 55062
Ottawa, Ontario
K1P 1A1
Canada
Email: info@africalawinstitute.org
Web: <http://www.africalawinstitute.org>

Center for International Environmental Law

1367 Connecticut Ave. NW, Suite 300
Washington, DC 20036
Tel: +1-202-785-8700
Fax: +1-202-785-8701
Email: info@ciel.org
Web: <http://www.ciel.org>

Comisión Centroamericana de Ambiente y Desarrollo

Bldv. Orden de Malta No. 470
Santa Elena, Antiguo Cuscatlan
La Libertad
El Salvador
Tel: +503-2248-8800
Fax: +503-2248-8894
Web: <http://www.ccad.ws/>

Earth Day Network (EDN)

1616 P Street NW, Suite 340
Washington, DC 20036
United States of America
Tel: +1-202-518-0044
Fax: +1-202-518-8794
Email: rogers@earthday.net
Web: <http://www.earthday.net/>

Environmental Law Institute (ELI)

2001 L Street NW, Suite 620
Washington, DC 20036
United States of America
Tel: +1-202-939-3800
Fax: +1-202-939-3868
Email: law@eli.org
Web: <http://www.eli.org>

European Law Enforcement Organization (Europol)

Data Inspection Board
Registratiekamer
P.O. Box 93374
2509, AJ The Hague
The Netherlands
Tel: +31-070-381-1300
Fax: +31-070-381-1301
Web: <http://www.europol.eu.int/>

European Union Network for the Implementation and Enforcement of Environmental Law (IMEPL)

Mrs. Sabine Sommer
IMEPL Coordinator
Environment Directorate - General
BU-9 1/94
European Commission
B-1049 Brussels
Belgium
Email: Sabine.Sommer@cec.eu.int
Web: <http://europa.eu.int/comm/environment/impel/>

Foundation for International Environmental Law and Development (FIELD)

FIELD
52-53 Russell Square
London WC 1B 4HP
England
Tel: +44-(0)20-7637-7950
Fax: +44-(0)20-7637-7951
Email: field@field.org.uk
Web: <http://www.field.org.uk>

International Network for Environmental Compliance and Enforcement (INECE)

Durwood Zaelke, Director
INECE Secretariat
2141 Wisconsin Ave. NW, Suite D2
Washington, DC 20007
United States of America
Tel: +1-202-338-1300
Fax: +1-202-338-1310
Email: inece@inece.org
Web: <http://www.inece.org>

INTERPOL

General Secretariat
200, quai Charles de Gaulle
69006 Lyon
France
Fax: +33-4-72-44-71-63
Email: cp@interpol.int
Web: <http://www.interpol.int/>

IUCN Environmental Law Programme

IUCN Environmental Law Centre
Godesberger Allee 108-112
D-53175 Bonn
Germany
Tel: +49-228-269-2231
Fax: +49-228-269-2250
E-mail: secretariat@elc.iucn.org
Web: <http://www.iucn.org/themes/law>

Royal Institute of International Affairs (RIIA)

Chatham House
10 St James's Square
London SW 1Y 4LE
England
Tel: +44-(0)20-7957-5700
Fax: +44-(0)20-7957-5710
Email: contact@riia.org
Web: <http://www.riia.org/riia>

South Asia Cooperative Environment Programme (SACEP)

10, Anderson Road
Colombo – 5
Sri Lanka
Tel: +94-11-2589787
Fax: +94-11-2589369
Email: info@sacep.org
Web: <http://www.sacep.org/>

Pacific Regional Environment Programme (SPREP)

P.O. Box 240
Apia, Samoa
Tel: +685-21929
Fax: +685-20231
Email: sprep@sprep.org.ws
Web: <http://www.sprep.org>

Regional Environment Center (REC) for Central and Eastern Europe

Ady Endre ut 9-11
2000 Szentendre, Hungary
Tel: +36-26-504-000
Fax: +36-26-311-294
Web: <http://www.rec.org>

TRAFFIC International

219a Huntingdon Road
Cambridge CB3 0DL
United Kingdom
Tel: +44-(0)1223-277427
Fax: +44-(0)-1223-277237
Email: traffic@trafficint.org
Web: <http://www.traffic.org/>

World Customs Organisation (WCO)

Rue du Marché 30
B-1210 Brussels
Belgium
Tel: +32-2-209-92-11
Fax: +32-2-209-92-72
Email: information@wcoomd.org
Web: <http://www.wcoomd.org>

**World Wide Fund for Nature
(WWF) – International**

Av. du Mont-Blanc

1196 Gland

Switzerland

Tel: +41-22-364-88-36

Fax: +41-22-364-91-11

Web: <http://www.wwf.org/>, <http://www.panda.org/>

Annex VI

List of Selected References

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Annex VII

Selected Internet Resources

There is a wealth of information on the Internet relating to compliance with and enforcement of MEAs. One challenge is to identify the most relevant and reliable sites for a given purpose. This Annex includes some of the key sites, but there is much more available. If you do not find precisely what you are looking for on these sites, try: (1) using a search engine such as Google (<http://www.google.com>); (2) use an internal search engine on a likely site; and (3) try some of the links to other web pages on a promising site.

A box on “MEA Clearing Houses” in Guideline 34(c), above, addresses the use of Internet-based MEA clearing houses. These clearing houses typically focus on sharing experiences in implementing a particular MEA, while the MEA home pages (listed below) provide a wider range of information.



Please note that websites often are reorganised or even moved to a new address. If the particular reference is not available at the Internet site listed below, try a Google search to find the new address.

MEA-Specific Web Sites

Antarctic Treaty

<http://www.ats.aq/>

<http://www.scar.org/treaty/>

Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal

<http://www.basel.int>

Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR)

<http://www.ccamlr.org/>

Convention concerning the Protection of the World Cultural and Natural Heritage (World Heritage Convention)

<http://whc.unesco.org/>

Convention on Biological Diversity (CBD) and the Cartagena Protocol on Biosafety

<http://www.biodiv.org>

Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)

<http://www.cites.org>

Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR)

<http://www.ccamlr.org/>

Convention on the Conservation of Migratory Species of Wild Animals (CMS)

<http://www.cms.int>

Convention on the Law of the Non-navigational Uses of International Watercourses

<http://www.un.org/law/ilc/texts/nnavfra.htm>

Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (London Dumping Convention)

<http://www.londonconvention.org/main.htm>

Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar Convention)

<http://www.ramsar.org>

Framework Convention for the Protection and Sustainable Development of the Carpathians

<http://www.carpathianconvention.org>

International Convention for the Prevention of Pollution from Ships, 1973, as Modified by the Protocol of 1978 Relating Thereto (MARPOL 73/78)

http://www.imo.org/Conventions/contents.asp?doc_id=678&topic_id=258

Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (PIC)

<http://www.pic.int>

Stockholm Convention on Persistent Organic Pollutants (POPs)

<http://www.pops.int>

United Nations Convention on the Law of the Sea (UNCLOS)

<http://www.un.org/Depts/los/index.htm>

United Nations Convention to Combat Desertification in Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa (UNCCD)

<http://www.unccd.int>

United Nations Framework Convention on Climate Change (UNFCCC) and the Kyoto Protocol to the UNFCCC

<http://unfccc.int/>

<http://www.iisd.ca/climate/other.html> (Selected Internet Resources on Climate Change)

Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocol on Substances that Deplete the Ozone Layer

<http://www.unep.org/ozone>

<http://www.unep.fr/ozonaction/> (OzonAction Programme – Selected Resources on Implementation)

General Internet Resources for MEAs

Atlas of International Freshwater Agreements

<http://www.transboundarywaters.orst.edu/publications/atlas/> (on-line atlas)

<http://ocid.nacse.org/cgi-bin/qml/tfdd/treaties.qml> (International Freshwater Treaties Database)

Center for International Earth Science Information Network (CIESIN)

<http://www.ciesin.org/> (home page)

<http://www.ciesin.org/TG/PI/TREATY/sources.html> (Sources of Environmental Treaties, with links)

ECOLEX

<http://www.ecolex.org> (searchable by subject, keywords, country, and year)

Electronic Information System for International Law: International Environmental Law

http://www.eisil.org/index.php?sid=479972656&t=sub_pages&cat=18 (including MEAs and resource materials for specific topics in international environmental law)

Environmental Treaties and Resource Indicators (ENTRI)

<http://sedac.ciesin.columbia.edu/entri/index.jsp> (MEA text, status data, and other related information)

FAOLEX

<http://faolex.fao.org/faolex/> (searchable database with MEAs and national laws and regulations on food, agriculture, and renewable natural resources)

International Environmental Agreements Website (by Professor Ronald B. Mitchell)

<http://www.uoregon.edu/~rmitchel/iea/> (including 700 MEAs, a list of bilateral environmental agreements, and a hyperlinked list of over 200 intergovernmental secretariats addressing environmental agreements)

Multilaterals Project (Fletcher School of Tufts University)

<http://fletcher.tufts.edu/multilaterals.html> (with atmosphere and space, biodiversity, cultural protection, marine and coastal, and other environmental MEAs)

Pace Virtual Environmental Law Library

<http://joshua.law.pace.edu/env/generalcategoryalpha.html> (grouped in general agreements, Antarctic treaties, seas and fisheries, air pollution, climate change, hazardous substances, nature and biodiversity, impact assessment)

Pacific Regional Environment Programme (SPREP)

<http://www.sprep.org.ws/> (for the Waigani Convention and Apia Convention, and related materials)

Regional Seas Conventions and Action Plans (linking to specific regions)

<http://www.unep.ch/seas/> (including conventions and other legal instruments)

<http://fletcher.tufts.edu/multi/marine.html> (marine and coastal MEAs)

United Nations Treaty Collection

<http://untreaty.un.org/> (available in English and French)

United Nations Economic Commission for Europe (UNECE)

<http://www.unece.org/env/> (for the UNECE MEAs, including the Aarhus Convention, Espoo Convention, Helsinki Convention, LRTAP, and other agreements)

UNEP.Net

<http://www.unep.net> (with information grouped thematically, regionally, and nationally; including legal, policy, technical, educational, and activity information)

UNEP Register of Environmental Conventions

<http://www.unep.org/SEC/reg3.htm>

Yearbook of International Co-operation on Environment and Development

<http://www.greenyearbook.org/about/ab-ind.htm#Website> (complementing the print version, the on-line Yearbook includes detailed information on MEAs, international organizations, international NGOs, and selected thematic articles)

Web Sites Focused on Compliance and Enforcement, Generally

ECOLEX (treaties, national legislation, court decisions, and literature):

<http://www.ecolex.org>

European Law Enforcement Organization (Europol): <http://www.europol.eu.int>

European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL): <http://europa.eu.int/comm/environment/impel>

Food and Agriculture Organisation (FAO)

FAOLEX (national laws and regulations on food, agriculture, and renewable natural resources): <http://faolex.fao.org/faolex/>

FAO legal papers on-line: <http://www.fao.org/legal/prs-ol/paper-e.htm>

Green Customs Initiative: <http://www.greencustoms.org>

International Network for Environmental Compliance and Enforcement (INECE):

<http://www.inece.org>

including the INECE Bibliography (compiling more than 450 articles, books, and manuals authored by leading experts and institutions in the field of environmental implementation, enforcement, and compliance, available at

<http://www.inece.org/library/bibliography.html>).

INTERPOL: <http://www.interpol.int>

Web Sites with Specific Publications

Kyoto, POPS and Straddling Stocks: Understanding Environmental Treaties by Linda Nowlan & Chris Rolfe (Jan. 2003): <http://www.wcel.org/wcel/pub/2003/13929.pdf>

International Ocean Governance: Using International Law and Organizations to Manage Marine Resources Sustainably, by Lee A. Kimball (2001): <http://www.iucn.org/themes/marine/pdf/IUCN%20book.pdf>

Assistance in Environmental Law Drafting in the SEE by the Regional Environment Centre for Central and Eastern Europe (Dec. 2003): <http://www.rec.org/REC/Programs/REREP/Documents/update/AssistanceInLawDrafting.pdf>

See also <http://www.rec.org/REC/Programs/REREP/AIMS/>

Annex VIII

Composition of Negotiating Blocs

Throughout this Manual, reference is frequently made to various groups of nations and negotiating blocs. This annex lists the members of some of the more commonly mentioned blocs. The specific membership of these blocs changes over time, so the lists below should be considered illustrative of the memberships.

The **Group of Eight** or **G8**: The eight member countries include Germany, Canada, the United States, France, Italy, Japan, the United Kingdom, and Russia. The European Union also participates. For more information, see <http://www.g8.fr/evian/english/home.html>. Sometimes, the **Group of Seven** or **G7** is used to refer to the group of countries that includes all the countries of the G8 except Russia.

The **Group of 77** or **G-77**: Originally established on 15 June 1964 by 77 developing countries, it now includes 135 members. These are Afghanistan, Algeria, Angola, Antigua and Barbuda, Argentina, Bahamas, Bahrain, Bangladesh, Barbados, Belize, Benin, Bhutan, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, Central African Republic, Chad, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Democratic People's Republic of Korea, Democratic Republic of the Congo, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Eritrea, Ethiopia, Fiji, Gabon, Gambia, Ghana, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Marshall Islands, Mauritania, Mauritius, Micronesia (Federated States of), Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Nicaragua, Niger, Nigeria, Oman, Pakistan, Palau, Palestine, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Qatar, Romania, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Sao Tome and Principe, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Solomon Islands, Somalia, South Africa, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Thailand, Timor-Leste, Togo, Tonga, Trinidad and Tobago, Tunisia, Turkmenistan, Uganda, United Arab Emirates, United Republic of Tanzania, Uruguay, Vanuatu, Venezuela, Viet Nam, Yemen, Yugoslavia, Zambia, and Zimbabwe. In some negotiations, this bloc is also referred to as "G-77 plus China." For more information, see <http://www.g77.org>.

The **Least Developed Countries (LDCs)**: These countries are based on specific criteria for (1) low per capita income, (2) human resource weakness, and (3) economic vulnerability. They include: Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Cape Verde, Central African Republic, Chad, Comoros, Democratic Republic of the Congo, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Lao People's Democratic Republic, Lesotho, Liberia, Madagascar, Malawi, Maldives, Mali, Mauritania, Mozambique, Myanmar, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, Sudan, Timor-Leste, Togo, Tuvalu, Uganda, United Republic of Tanzania,

Vanuatu, Yemen, and Zambia. For more information, see <http://www.un.org/special-rep/ohrlls/ldc/default.htm>.

JUSCANZ: Originally composed of Japan, the United States, Canada, Australia, and New Zealand (J-US-C-A-NZ), it has expanded to also include Switzerland, Norway, Mexico, and Iceland.

The **Group of Like-minded Mega Diverse Countries:** Focusing on issues relating to the Convention on Biological Diversity, this group includes Bolivia, Brazil, China, Colombia, Costa Rica, Ecuador, India, Indonesia, Kenya, Malaysia, Mexico, Peru, the Philippines, South Africa, and Venezuela.

There are also numerous regional negotiating blocs, including:

- the **European Union**;
- **Group of Latin American and Caribbean Countries (GRULAC)**;
- **African Group**;
- **Small Island Developing States (SIDS)** (which also include low-lying coastal countries; for more information, see <http://www.sidsnet.org> and <http://www.un.org/esa/sustdev/sids/sids.htm>);
- **Association of Small Island States (AOSIS)** (including 43 island and low-lying States; functions as an ad hoc lobbying body for SIDS; for more information, see <http://www.sidsnet.org/aosis>); and
- **Organisation of Eastern Caribbean States (OECS)** (for more information, see <http://www.oecs.org>).

Annex IX

Acronyms used in the Manual

A

ABS:	Access to genetic resources and benefit sharing
ACAP:	(CMS) Agreement on the Conservation of Albatrosses and Petrels
ACC:	Adapting to Climate Change (project in the Caribbean region)
ACCOBAMS:	(CMS) Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea, and Contiguous Atlantic Area
ADB:	Asian Development Bank
ADR:	Alternative dispute resolution
AEWA:	(CMS) African-Eurasian Waterbird Agreement
AIDA:	Interamerican Association for the Defense of the Environment (known by its Spanish acronym)
ARCA:	Regional Conservation Policy Alliance for Latin America and the Caribbean (known by its Spanish acronym)
AIMS:	(REC project on) Acceptance and Implementation of Multilateral Environmental Agreements in South Eastern Europe
ALJ:	Administrative law judge (e.g., United States)
AMCEN:	African Ministerial Conference on the Environment
ANA:	National Water Agency (e.g., Brazil) (known by its Portuguese acronym)
AOSIS:	Association of Small Island States
ARA:	Academic Research Agreement
ASCOBANS:	(CMS) Agreement on the Conservation of Small Cetaceans of the Baltic and North Seas
ASEAN:	Association of Southeast Asian Nations
ASEANWEN:	ASEAN Wildlife Enforcement Network
AU:	African Union
AVIGREF:	Villagers' Association for the Managements of Wildlife Reserves (Benin) (known by its French acronym)

B

BAT:	Best available technology
BCRC:	Basel Convention Regional Centre

BERCEN:	Balkan Environmental Regulatory Compliance and Enforcement Network
BFAR:	(Philippines) Bureau of Fisheries and Aquatic Resources
BIOPAT:	Patrons for Biodiversity
BLG:	Biodiversity Liaison Group
BoC:	Bureau of Customs (e.g., Philippines)

C

CABI:	CAB International
CACMA:	Central Asia, Caucasus, Moldova, and Albania
CARICOM:	Caribbean Community
CBD:	Convention on Biological Diversity
CBTHP:	Community Based Trophy Hunting Programme (e.g., Pakistan)
CBNRM:	Community-based natural resource management
CBO:	Community-based organisation
CCAMLR:	Convention on the Conservation of Antarctic Marine Living Resources
CCD:	Convention to Combat Desertification in Countries Experiencing Serious Drought and/or Desertification Particularly in Africa
CCAD:	Central American Commission for Environment and Development (in Spanish, Comisión Centroamericana de Ambiente y Desarrollo)
CCCCC:	Caribbean Community Climate Change Centre
CDI:	Capacity Development Initiative (GEF)
CDM:	Clean Development Mechanism
CDS:	Catch Documentation Scheme
CEC:	(North American) Commission for Environmental Cooperation
CEE:	Central and Eastern Europe
CEITs:	Countries with economies in transition
CEL:	(IUCN) Commission on Environmental Law
CEN:	Compliance Enforcement Network (of the World Customs Organisation)
CENAGREF:	National Centre for Management of Wildlife Reserves (Benin) (known by its French acronym)
CEPA:	Communication, Education and Public Awareness
CERN:	Caribbean Environmental Reporters Network
CFCs:	Chlorofluorocarbons
CFL:	Compact fluorescent light
CICC:	Inter-institutional Committee for Climate Change

CID:	Criminal Investigation Division (e.g., of the United States EPA)
CIESIN:	Center for International Earth Science Information Network
CILSS:	Committee on Drought Control in the Sahel (known by its French acronym)
CIRM:	Inter-Ministerial Commission for Marine Resources (Brazil, known by its Portuguese acronym)
CITES:	Convention on International Trade in Endangered Species of Wild Fauna and Flora
CLEEN:	(EU) Chemical Legislation European Enforcement Network
CMS:	Convention on the Conservation of Migratory Species of Wild Animals
CNPq:	National Council for the Development of Science and Technology (Brazil, known by its Portuguese acronym)
COA:	Council of Agriculture (Taiwan, Province of China)
COGEPAF:	Participatory Forest Management Committee (Benin) (known by its French acronym)
CONAGESE:	National Council for Environmental Management (Burkina Faso, known by its French acronym; precursor institution to CONEDD)
CONEDD:	National Council on Environment and Sustainable Development (Burkina Faso, known by its French acronym)
COP or CoP:	Conference of the Parties
COP-MOP:	Conference of the Parties serving as the Meeting of the Parties to the Protocol (e.g., Cartagena Protocol)
COREPER:	(EC) Council of Permanent Representatives of Member States
CPACC:	Caribbean Planning for Adaptation to Climate Change
CRA:	Commercial Research Agreement
CRC:	Conventions Reference Centre (Sri Lanka)
CREHO:	Regional Ramsar Centre for Training and Research on Wetlands in the Western Hemisphere (known by its Spanish acronym)
CSD:	(UN) Commission on Sustainable Development
CSSEL:	Conservation Society of Sierra Leone
CV:	Curriculum vitae
CZMA:	Coastal Zone Management Act (e.g., Barbados) or Coastal Zone Management Authority

D

DANCEE:	Danish Environmental Agency for Central and Eastern Europe
DEC:	(UNEP) Division of Environmental Conventions

DECRG:	(World Bank's) Development Research Group
DENR:	Department of Environment and Natural Resources (e.g., Philippines)
DEPI:	Division of Environmental Policy Implementation (DEPI)
DESA:	(UN) Department of Economic and Social Affairs
DEWA:	(UNEP) Division of Early Warning and Assessment
DN:	Directorate for Nature Management (Norway)
DOJ:	Department of Justice (e.g., United States)
DPDL:	(UNEP) Division of Policy Development and Law
DRC:	(UNEP) Division of Regional Cooperation
DSA:	Daily Subsistence Allowance
DSM:	Demand-Side Management
DTIE:	(UNEP) Division of Technology, Industry and Economics

E

EAB:	Environmental Appeals Board (e.g., United States)
EAJA:	Equal Access to Justice Act (United States)
EBR:	Environmental Bill of Rights (Ontario, Canada)
EBRD:	European Bank for Reconstruction and Development
ECENA:	Environmental Compliance and Enforcement Network for Accession
ECHO:	Enforcement and Compliance History Online (of the U.S. Environmental Protection Agency)
ECLAC:	(UN) Economic Commission for Latin America and the Caribbean (also UNECLAC)
ECZ:	Environmental Council of Zambia
EDN:	Earth Day Network
EDPRP:	Economic Development and Poverty Reduction Program (e.g., Georgia)
EEA:	Executive Environment Agency (e.g., Bulgaria)
EECCA:	Eastern Europe, Caucasus, and Central Asia
EET:	Environmental Education and Training
EGAT:	Electricity Authority of Thailand
EIA:	Environmental impact assessment
ELC:	(IUCN) Environmental Law Centre
ELI:	Environmental Law Institute
ELNI:	Environmental Law Network International

EMAS:	(European) Eco-Management and Audit Scheme
EMB:	Environmental Management Bureau (e.g., Philippines)
EMCA:	Environmental Management and Coordination Act (e.g., Kenya)
EMEP:	Cooperative Programme for Monitoring and Evaluation of the Long-Range Transmission of Air Pollutants in Europe
EMG:	Environmental Management Group (of UNEP)
EMPS:	Environment Management Plan of Seychelles
EMS:	Environmental management system
ENB:	Earth Negotiations Bulletin
ENVIS:	Environmental Information System (India)
EPA:	Environmental Protection Agency (e.g., Ghana, United States)
EPL:	Ecopravo-Lviv
ER:	Environmental Registry (Canada)
ERP:	Enforcement Response Policy (e.g., United States)
ESDU:	Environment and Sustainable Development Unit (e.g., OECS)
ETIS:	Elephant Trade Information System (under CITES)
EU:	European Union
EUFJE:	EU Forum of Judges for the Environment
EUROBATS:	(CMS) Agreement on the Conservation of Populations of European Bats

F

FAO:	UN Food and Agriculture Organisation
FASA:	Agronomic Faculty of Science (Cameroon, known by its French acronym)
FBMC:	Brazilian Forum on Climate Change (known by its acronym in Portuguese)
FEPA:	Federal Environmental Protection Agency (e.g., Nigeria)
FFI:	Fauna and Flora International
FOIA:	Freedom of Information Act (e.g., United States)
FYR:	Former Yugoslav Republic

G

G-8:	Group of Eight (Developed Countries)
G-77:	Group of Seventy-Seven (Developing Countries)
GA:	Scientific Advisory Group (Brazil, known by its Portuguese acronym)

GAAM:	Environmental Assessment Group (Brazil, known by its Portuguese acronym)
GATT:	General Agreement on Tariffs and Trade
GBO:	Global Biodiversity Outlook
GC:	Governing Council
GCFA:	High Andean Flamingos Conservation Group (known by its Spanish acronym)
GDP:	Gross Domestic Product
GEF:	Global Environment Facility
GEN:	Global Ecolabelling Network
GEO:	Global Environment Outlook
GHESP:	Global Higher Education for Sustainability Partnership
GIS:	Geographic Information System
GISP:	Global Invasive Species Programme
GLOBE:	Global Legislators Organisation for a Balanced Environment; also Global Learning and Observations to Benefit the Environment
GMO:	Genetically modified organism
GO:	Operational Group (Brazil, known by its Portuguese acronym)
GRAIN:	Genetic Resources Action International
GREEN:	Global Rivers Environmental Education Network
GRULAC:	Group of Latin American and Caribbean Countries
GSPC:	(CBD) Global Strategy for Plant Conservation
GTZ:	Agency for Technical Cooperation (Germany) (known by the acronym of its German name, Gesellschaft für Technische Zusammenarbeit)

H

HCENR:	Higher Council for Environment and Natural Resources (Sudan)
HSES:	High School for Environmental Studies

I

IABA:	Inter-American Bar Association
IACBGR:	Inter-agency Committee on Biological and Genetic Resources (e.g., Philippines)
ICAD:	International Compliance Assurance Division (of the U.S. Environmental Protection Agency)
ICIPE:	International Centre of Insect Physiology and Ecology

IDA:	International Development Agency
IEC:	Information, Education, and Communication (under the Montreal Protocol)
IFCS:	Intergovernmental Forum on Chemical Safety
IFI:	International financial institution
ILEA:	International Law Enforcement Academy
ILO:	International Labour Organization
IMF:	International Monetary Fund
IMO:	International Maritime Organization
IMPEL:	European Union Network for the Implementation and Enforcement of Environmental Law
INECE:	International Network for Environmental Compliance and Enforcement
INC:	Intergovernmental Negotiating Committee
INPE:	National Institute for Space Research (Brazil, known by its Portuguese acronym)
IOMC:	Inter-Organization Programme on the Sound Management of Chemicals
IPAF:	Integrated Protected Area Fund (e.g., Philippines)
IPCC:	Intergovernmental Panel on Climate Change
IPPC:	Integrated Pollution Prevention and Control
IRAD:	Institute of Agricultural Research for Development (Cameroon, known by its French acronym)
ISO:	International Organization for Standardization
IUCN:	The World Conservation Union
IUU:	Illegal, Unregulated, and Unreported (fishing)

J

JLG:	Joint Liaison Group
JUSCANZ:	Japan, United States, Canada, Australia, and New Zealand (plus other countries, as set forth in Annex VI)

K

KCDC:	Khartoum Centre Development Corporation
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L

LA21:	Local Agenda 21
LAGA:	Last Great Ape Organization (Cameroon)

LDC:	Least developed country
LEC:	Land and Environment Court (Australia)
LMMA:	Locally managed marine area (e.g., in Fiji)
LMO:	Living modified organism
LRTAP:	(Convention on) Long-Range Transboundary Air Pollution
LULUCF:	Land Use, Land-Use Change, and Forestry

M

MA:	Millennium Ecosystem Assessment
MACC:	Mainstreaming Adaptation to Climate Change (project in the Caribbean region)
MACP:	Mountain Areas Conservation Project (Pakistan)
MAI:	Multilateral Agreement on Investment
MARPOL:	International Convention on the Prevention of Pollution from Ships
MASIPAG:	Magsasaka at Siyentista Para sa Pagpapaunlad ng Akmang Agricultura (Philippines)
MBA:	Master of Business Administration
MDG:	Millennium Development Goal
MEA:	Multilateral Environmental Agreement
MENR:	Ministry of Environment and Natural Resources (e.g., Seychelles)
MERCOSUR:	Common Market of the South (in Spanish Mercado Común del Sur for southern South America)
MFA:	Ministry of Foreign Affairs
MIKE:	Monitoring the Illegal Killing of Elephants (under CITES)
MLF:	Multilateral Fund for the Implementation of the Montreal Protocol
MMA:	Ministry of Environment (Brazil, known by its Portuguese acronym)
MOE:	Ministry of Environment
MOEPP:	Ministry of Environment and Physical Planning (e.g., Macedonia)
MOEW:	Ministry of Environment and Water (e.g., Bulgaria)
MOP:	Meeting of the Parties
MOS:	Meeting of the Signatories
MOU:	Memorandum of Understanding

N

NAAEC:	North American Agreement on Environmental Cooperation
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NACEC:	North American Commission for Environmental Cooperation
NAFTA:	North American Free Trade Agreement
NAP:	National Action Plan (under the CCD)
NAPA:	National Adaptation Programme of Action (under the UNFCCC)
NAWEG:	North American Wildlife Enforcement Group
NBF:	National Biosafety Framework
NBSAP:	National Biodiversity Strategy and Action Plan
NCBTS:	National Capacity Building and Technology Support (Plan)
NCC:	National Compliance Centre (for Montreal Protocol); also National Coordinating Committee (e.g., Bulgaria)
NCCC:	National Commission on Climate Change (e.g., Romania)
NCCD:	National Coordinating Committee for Desertification (e.g., Sudan)
NCCDC:	National Coordinating Committee on Desertification Control
NCPGR:	National Committee on Plant Genetic Resources (Philippines)
NCSA:	National Capacity Self-Assessment for Global Environmental Management (by various nations, pursuant to the GEF)
NCSD:	National Center for Sustainable Development (e.g., Romania)
NDES:	Niger Delta Environmental Survey
NDDCU:	National Drought and Desertification Control Unit (e.g., Sudan)
NDDU:	National Desertification Control and Monitoring Unit (e.g., Sudan)
NEA:	National Environment Agency (e.g., Gambia)
NEAP:	National Environmental Action Plan
NEDA:	National Economic Development Authority (e.g., Philippines)
NEF:	National Environment Fund (Uganda)
NEIC:	National Environmental Information Centre (Uganda)
NEMA:	National Environmental Management Authority (Uganda)
NEPAD:	New Partnership for Africa's Development
NET:	National Environmental Trust
NETI:	National Enforcement Training Institute (of the U.S. Environmental Protection Agency)
NGA:	Negotiated Greenhouse Agreement
NDDU:	National Desertification Control and Monitoring Unit (e.g., Sudan)
NGO:	Non-governmental Organisation
NIP:	National Implementation Plan

NIPAS:	(Philippines) National Integrated Protected Areas System
NOO:	National Ozone Officer (for Montreal Protocol)
NORAD:	Norwegian Agency for Cooperation and Development
NOU:	National Ozone Unit (for Montreal Protocol)
NRCA:	Natural Resources Conservation Authority (Jamaica)
NSDS:	National Sustainable Development Strategy (e.g., Romania)

O

OAU:	Organization of African Unity (now the African Union, or AU)
OCFSA:	Organization for the Conservation of Wildlife in Africa (known by its French cronym for L'Organisation pour la Conservation de la Faune sauvage en Afrique)
ODS:	Ozone Depleting Substance(s)
OECD:	Organisation for Economic Co-operation and Development
OECS:	Organisation of Eastern Caribbean States
OEJ:	Office of Environmental Justice (of the U.S. Environmental Protection Agency)
OIPR:	Ivoirean Office Parks and Reserves (Ivory Coast) (known by its French acronym).
OPCW:	Organisation for the Prohibition of Chemical Weapons
OPRC:	[Convention on] Oil Pollution Preparedness, Response and Cooperation
OSCE:	Organization for Security and Co-operation in Europe

P

PADELIA:	(UNEP) Partnership for Development of Environmental Law and Institutions in Africa
PAH:	Polycyclic Aromatic Hydrocarbon
PAHO:	Pan-American Health Organization
PAMB:	Protected Area Management Board (e.g., Philippines)
PAW:	Partnership for Action Against Wildlife Crime (United Kingdom)
PCA:	Plant Conservation Action Group (Seychelles); also the Permanent Court of Arbitration
PCSD:	Philippine Council for Sustainable Development
PEEM:	Public Environmental Expenditure Management
PGRFA:	(International Convention on) Plant Genetic Resources for Fod and Agriculture

PGRN:	programme on natural resource management (known by its French acronym)
PGTRN:	project on natural resource and soil management (Benin) (known by its French acronym)
PIC:	Prior Informed Consent
POD:	Philippine Ozone Desk
POPs:	Persistent Organic Pollutants
PPT:	Permanent People's Tribunal (India)
PROANTAR:	Brazilian Antarctic Program
PRSP:	Poverty Reduction Strategy Paper
PRTR:	Pollutant release and transfer register
PSC:	Project Steering Committee

R

RAED:	Arab Network for Environment and Development
REC:	Regional Environmental Center (e.g., for Central and Eastern Europe)
RERF:	Renewable Energy Revolving Fund (e.g., Georgia)
RFMO:	Regional Fisheries Management Organization
RIA:	Regulatory impact assessment
RIEW:	Regional Inspectorates on Environment and Water (e.g., Bulgaria)
RIIA:	Royal Institute for International Affairs
RILO:	Regional Intelligence Liaisons Office
RIS:	Ramsar (Convention) Information Sheet
RMPs:	Refrigerant Management Plans
RMPs:	Refrigerant Management Plans
ROA:	(UNEP) Regional Office for Africa
ROAP:	(UNEP) Regional Office for Asia and the Pacific
ROE:	(UNEP) Regional Office for Europe
ROLAC:	(UNEP) Regional Office for Latin America and the Caribbean
RONA:	(UNEP) Regional Office for North America
ROWA:	(UNEP) Regional Office for West Asia
RPIU:	Regional Project Implementation Unit

RPPN: Private Natural Heritage Reserve (Brazil, known by its Portuguese acronym)

RSPB: Royal Society for the Protection of Birds

S

SACEP: South Asia Cooperative Environment Programme

SAICM: Strategic Approach to International Chemicals Management

SAyDS Secretariat of Environment and Sustainable Development (Argentina) (known by its Spanish acronym for Secretaría de Ambiente y Desarrollo Sustentable)

SBSTA: Subsidiary Body for Scientific and Technological Advice (e.g., UNFCCC)

SBSTTA: Subsidiary Body on Scientific, Technical and Technological Advice (e.g., CBD)

SEA: Strategic environmental assessment

SEAP: South East Asia and Pacific (Network)

SEARICE: Southeast Asian Regional Institute for Community Education

SECIRM: Executive Office of the Inter-Ministerial Commission for Marine Resources (Brazil, known by its Portuguese acronym)

SECS: Sudanese Environment Conservation Society

SEE: South Eastern Europe

SEP: Supplemental environmental project

SEPA: State Environmental Protection Agency (e.g., in China and Nigeria)

SFT: Norwegian Pollution Control Authority

SGF: Small Grants Fund for Wetland Conservation and Wise Use (under the Ramsar Convention)

SIA: Sustainability Impact Assessment

SIAM: Mesoamerican Environmental Information System (known by its Spanish acronym)

SIDS: Small island developing state

SNH: National Hydrocarbons Corporation (Cameroon)

SNUC: National System of Nature Conservation Areas (Brazil, known by its Portuguese acronym)

SOE: State of the Environment (reports)

SPAW: (Protocol Concerning) Specially Protected Areas and Wildlife (to the Cartagena Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region)

SPDC: Shell Petroleum Development Company

- SPREP: Pacific Regional Environment Programme, or Secretariat of the Pacific Regional Environment Programme (formerly the South Pacific Regional Environment Programme)
- SRG: (EC) Scientific Review Group
- STRP: Scientific and Technical Review Panel (of the RAMSAR Convention)

T

- TEAP: (UNEP) Technology and Economic Assessment Panel
- TIGERS: Trade Infraction and Global Enforcement Recording System (a CITES initiative)
- TRAFFIC: Trade Records Analysis of Fauna and Flora in Commerce
- TRIPS: (WTO Agreement on) Trade-related Intellectual Property Rights

U

- UCL: University College London
- UIA: International University of Andalusia (acronym in Spanish)
- UNCCD: United Nations Convention to Combat Desertification in Countries Experiencing Serious Drought and/or Desertification Particularly in Africa
- UNCED: United Nations Conference on Environment and Development
- UNCLOS: United Nations Convention on the Law of the Sea
- UNDA: United Nations Development Account
- UNDESD: United Nations Decade of Education for Sustainable Development
- UNDP: United Nations Development Programme
- UNECE: United Nations Economic Commission for Europe
- UNECLAC: United Nations Economic Commission for Latin America and the Caribbean (also ECLAC)
- UNEP: United Nations Environment Programme
- UNESCO: United Nations Educational, Scientific, and Cultural Organization
- UNFCCC: United Nations Framework Convention on Climate Change
- UNICEF: United Nations Children's Fund
- UNIDO: United Nations Industrial Development Organization
- UNITAR: United Nations Institute for Training and Research
- UNSO: (UNDP) Office to Combat Desertification and Drought
- UPOV: International Union for the Protection of New Varieties of Plants
- USAID: U.S. Agency for International Development

USEPA: U.S. Environmental Protection Agency
USFWS: U.S. Fish and Wildlife Service
UWI: University of the West Indies

V

VMS: Vessel monitoring system (for fishing)
VOC: Volatile organic compound

W

WCMC: UNEP World Conservation Monitoring Centre
WCO: World Customs Organisation
WCS: Wildlife Clubs of Seychelles; also Wildlife Conservation Society
WFF: Wetlands for the Future Fund
WGRI: Ad Hoc Open-Ended Working Group on Review of Implementation (of the CBD)
WHO: World Health Organization
WIPO: World Intellectual Property Organization
WPIEI: (EC) Working Party on International Environment Issues
WRI: World Resources Institute
WSSD: World Summit on Sustainable Development
WTMU: Wildlife Trade Monitoring Unit (of Interpol)
WTO: World Trade Organisation
WWF: World Wide Fund for Nature, or World Wildlife Fund (in United States and Canada)

Annex X

Glossary Of Terms¹

User notes

When an acronym, word, or phrase in a definition is **underlined**, the acronym, word, or phrase has its own separate definition in the glossary.

When a definition is the definition provided under an MEA, the source has been provided in parenthesis (e.g. "CBD").

¹ This glossary builds upon a glossary for MEA Negotiators prepared by the Division of Environmental Conventions of UNEP (Draft June 2006).

A	
Aarhus Convention	Shorthand for the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters. Adopted in Aarhus, Denmark, in 1998, and entered into force in 2001.
ABS	Access to genetic resources and benefit sharing. Acronym used in the context of the biodiversity negotiations.
ACAP	Agreement on the Conservation of Albatrosses and Petrels. One of the agreements under the Convention on Migratory Species of Wild Animals (CMS). Adopted in 2001, and entered into force in 2004.
Acceptance	In practice acceptance is used instead of ratification when, at a national level, constitutional law does not require an agreement to be ratified by the head of State. Acceptance has the same legal effect as ratification.
Accession	Act whereby a State becomes a Party to an international agreement already negotiated and signed by other States. Accession has the same legal effect as ratification , although an acceding State has not signed the agreement.
Acclamation	Mode of adoption of decisions without voting. The decision is considered adopted when all delegations have indicated their support by applause.
ACCOBAMS	Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea, and Contiguous Atlantic Area. One of the agreements under the Convention on Migratory Species of Wild Animals (CMS). Adopted in 1996, and entered into force in 2001.
Accreditation	Approval and assertion of the fact that credentials submitted by delegates to a particular meeting are in order.

Ad hoc	Latin word meaning "this purpose." An ad hoc <u>committee</u> , for example, is created with a unique and specific purpose or task and once it has studied and reported on a matter, it is discontinued.
Adaptation	1) Actions taken to help communities and <u>ecosystems</u> cope with changing climate conditions (<u>UNFCCC</u>). 2) Genetically determined characteristic that enhances the ability of an organism to cope with its environment (<u>CBD</u>).
Adaptation Fund	Fund established under the <u>Kyoto Protocol</u> to provide support for adaptation projects.
ADB	Asian Development Bank
Add.	Stands for "addendum". Used to reference additions to existing documents.
Additionality	<ol style="list-style-type: none"> 1. Funding principle meaning that projects would not be undertaken in absence of funds from the <u>Global Environment Facility</u>. 2. Approval test for projects under the <u>Clean Development Mechanism (CDM)</u> of the <u>Kyoto Protocol</u>. CDM projects are considered additional if they would not have taken place in the absence of the Clean Development Mechanism.
Adoption	<ol style="list-style-type: none"> 1) Adoption by a country of an international <u>agreement</u> refers to the process of its incorporation into the domestic legal system, through signature, ratification or any other process required under national law. 2) Adoption by the international community of an international agreement is the formal act by which the form and content of a proposed treaty text are established. 3) Adoption of a <u>decision, resolution, or recommendation</u> is the formal act (e.g. strike of gavel) by which the form and content of a proposed decision, resolution or recommendation are approved by <u>delegations</u>.

Ad referendum	“Subject to reference.” When a delegate is asked for agreement on a topic he or she is not authorized to give, he or she may agree ad referendum (or ad ref.), meaning he or she agrees provisionally and forwards the request for final approval.
Advanced Informed Agreement	Principle whereby the international exchange of resources or products that could have adverse effects on the environment should not proceed without the informed agreement of, or contrary to the decision of, the competent authority in the recipient country.
AEWA	African-Eurasian Migratory Waterbird Agreement. One of the agreements concluded under the Convention on Migratory Species of Wild Animals. Adopted in 1995, and entered into force in 1999.
Afforestation	The direct human-induced conversion of land that has not been forested for a period of at least 50 years to forested land through planting, seeding and/or the human-induced promotion of natural seed sources (UNFCCC).
Agenda	Programme of work during a meeting .
Agenda 21	Programme of action on sustainable development adopted at the UN Conference on Environment and Development in 1992, often referred to as the “Blueprint for Sustainable Development.” Agenda 21 has 40 chapters dealing with all aspects of sustainable development, including social and economic dimensions (combating poverty and promoting human health), conservation and resource management, major groups (e.g. women, indigenous people, business and unions), and means of implementation (e.g. financial resources, transfer of technology, public awareness and education).

Agreement	<p>1) Generic term for an international legally binding instrument. In this sense, encompasses several instruments, such as <u>treaties</u>, <u>conventions</u>, <u>protocols</u>, oral agreements.</p> <p>2) Specific term used to designate international instruments that area usually less formal and deal with a narrower range of subject-matter than treaties.</p>
AHTEG	<p>Ad Hoc Technical Expert Group. Within the context of the Convention on Biological Diversity (<u>CBD</u>), a group of experts convened once or several times to provide expert advice to the <u>Conference of the Parties</u> on specific issues. Example: AHTEG on <u>climate change</u> and <u>biodiversity</u>.</p>
AIA	<u>Advanced Informed Agreement</u>
Alien species	<p>Species occurring in an area outside of its historically known natural range as a result of intentional or accidental dispersal by human activities. Alien species are not necessarily <u>invasive species</u>.</p>
AMCEN	<p>African Ministerial Conference on the Environment. established in 1985 to strengthen cooperation between African governments on economic, technical and scientific activities to halt the degradation of Africa's. AMCEN plays an important role in providing political guidance to Africa's positions on many MEAs.</p>
Amendment	<p>1) A modification or addition to an existing legal instrument (e.g., <u>treaty</u>, <u>convention</u>, or <u>protocol</u>).</p> <p>2) A modification to a proposal under negotiation (e.g., draft <u>decision</u>, draft <u>recommendation</u>, or draft <u>resolution</u>).</p>
AOSIS	<p>Alliance of Small Island States. A negotiating group of 43 small island and low-lying coastal States.</p>

Approval	In practice, approval has been used instead of ratification when, at a national level, constitutional law does not require an international agreement to be ratified by the head of State. Approval has the same legal effect as ratification .
ASCOBANS	Agreement on the Conservation of Small Cetaceans of the Baltic and North Seas. One of the agreements under the Convention on Migratory Species of Wild Animals (CMS). Adopted in 1991 and entered into force in 1994.
ASEAN	Association of Southeast Asian Nations. A regional community of 10 States with the aim of accelerating economic growth and social progress, and promoting peace and security.
Assessed contribution	Contribution , expressed in percentage, of a Member State to the budget of an international organization.
ATCM	Antarctic Treaty Consultative Meeting. The governing body of the Antarctic Treaty (see ATS). Meets annually.
ATS	Antarctic Treaty System. Refers to all instruments adopted within the framework of the Antarctic Treaty, adopted in 1959, and entered into force in 1961. In addition to measures adopted annually by the Antarctic Treaty Consultative Meeting (ATCM), the following treaties compose the ATS: <ul style="list-style-type: none"> - The Convention for the Conservation of Antarctic Seals (CCAS) - The Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR) - The Convention for the Regulation of Antarctic Mineral Resource Activities (CRAMRA) - The 1991 Protocol on Environmental Protection to the Antarctic Treaty - The Agreement on the Conservation of Albatrosses and Petrels (ACAP)

B	
Ballast Water Convention	Shorthand for the International Convention for the Control and Management of Ships' Ballast Water and Sediments. Adopted in 2004, not yet entered into force.
Basel Convention	Shorthand for the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal. Adopted in 1989, and entered into force in 1989.
Basel Protocol	Shorthand for the Basel Protocol on Liability and Compensation to the Basel Convention on Hazardous Wastes. Adopted in 1999, not yet entered into force.
BAT	Best available technique or best available technology .
BCH	Biosafety clearing-house (in the context of the Biosafety Protocol).
BCRCs	Basel Convention Regional Centres. Centres established under the Basel Convention to assist developing countries and countries with economies in transition (CEITs), within their own region, to achieve the objectives of the Convention, through capacity building for environmentally sound management .
Berlin Mandate	A decision adopted at the first Conference of the Parties to the UN Framework Convention on Climate Change (UNFCCC) and which led to the adoption of the Kyoto Protocol .
Bern Convention	Shorthand for the Convention on the Conservation of European Wildlife and Natural Habitats. Adopted in 1979, and entered into force in 1982.
Best available technique	Most effective and advanced technique, the environmental impacts of which are limited.
Binding	Adjective which means that an instrument entails an obligation (usually for States) under international law.

Biodiversity	Shorthand for biological diversity. Variability among living organisms from all sources including terrestrial, marine and other aquatic ecosystems, and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems (CBD) .
Biodiversity Liaison Group	Group of representatives of the Secretariats of biodiversity-related MEAs to enhance coherence and cooperation in the implementation of these conventions .
Biological resources	Genetic resources, organisms or parts thereof, populations, or any other biotic component of ecosystems with actual or potential use or value for humanity (CBD).
Bioprospecting	Exploration of biodiversity for commercially, scientifically, or culturally valuable genetic and biochemical resources.
Biosafety	Safety aspects related to the application of biotechnologies (see biotechnology) and to the release into the environment of transgenic plants and other organisms, particularly microorganisms, that could negatively affect plant genetic resources, plant, animal or human health, or the environment.
Biosafety Protocol	Protocol to the Convention on Biological Diversity. Also referred to as the “Cartagena Protocol.” Adopted in 2000, and entered into force in 2004. The Protocol regulates the transboundary movement , transit, handling and use of living modified organisms that may have an adverse effect on the conservation and sustainable use of biodiversity .
Biotechnology	Any technological application that uses biological systems, living organisms, or derivatives thereof, to make or modify products or processes for specific use (CBD).
BLG	Biodiversity Liaison Group

Bonn Guidelines	Shorthand for the Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of the Benefits Arising out of their Utilization. Adopted by the sixth Conference of the Parties to the Convention on Biological Diversity (CBD), in 2002.
Bottom-up approach	Approach based on the participation of all stakeholders , particularly those at the local levels.
BPOA	Barbados Programme of Action for the Sustainable Development of Small Island States. Adopted at the Global Conference on the Sustainable Development of Small Island States in 1994.
Bretton Woods Institutions	International Bank for Reconstruction and Development (IBRD) (now one of five institutions in the World Bank Group) and the International Monetary Fund (IMF). Established by the Bretton Woods Agreements in 1944, Bretton Woods, New Hampshire, USA.
Brundtland Commission	Shorthand for the World Commission on Environment and Development. Named after its Chair, Gro Harlem Brundtland, Norwegian Prime Minister. The Commission produced a report in 1987, <i>Our Common Future</i> , which laid down the concept of sustainable development .
Brundtland Report	The outcome of the Brundtland Commission . Published in 1987.
Bureau	A formal structure that oversees the running of meetings . The Bureau is usually composed of representatives of each regional group and a Secretariat representative. In some instances, such as the International Conference on Chemicals Management an extended bureau may be created that includes intergovernmental organizations and non-governmental organizations.
Bushmeat	Meat for human consumption derived from wild animals.

C	
Capacity building	Process of developing the technical skills, institutional capability, and personnel to, e.g., implement MEAs .
Carbon tax	Tax by governments on the use of carbon-containing fuels.
CARICOM	Caribbean Community and Common Market. Regional economic integration community.
Cartagena Convention	Shorthand for the Cartagena Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region. Adopted in 1983, and entered into force in 1986.
Cartagena Protocol	Other name of the Biosafety Protocol to the Convention on Biological Diversity (CBD).
Caucus	A group of like-minded delegations , which meet both during and outside negotiations to develop common positions and negotiation strategies.
CBD	Convention on Biological Diversity. Adopted in 1992, and entered into force in 1993. One of the Rio Conventions .
CCAMLR	Convention for the Conservation of Antarctic Marine Living Resources. One of the agreements of the Antarctic Treaty System (ATS). Adopted in 1980, and entered into force in 1982. Acronym also used for the Commission, which administers the Convention.
CCAS	Convention for the Conservation of Antarctic Seals. One of the agreements of the Antarctic Treaty System (ATS). Adopted in 1972, and entered into force in 1978.
CDM	Clean Development Mechanism
CEE	Central and Eastern Europe
CEIT	Country with Economy in Transition. Designates a country that was formerly a centrally planned economy and is undergoing transition to a market-oriented economy.

CEPA	Communication, education and public awareness
CER	<u>Certified Emissions Reductions</u>
Certified Emissions Reductions	Unit equal to one metric ton of carbon dioxide equivalent, which may be used by countries listed in Annex I of the <u>Kyoto Protocol</u> towards meeting their binding emission reduction and limitation commitments (<u>UNFCCC</u>).
CFCs	Chlorofluorocarbons. A category of chemical substances that contributes to the depletion of the ozone layer. Regulated under the <u>Montreal Protocol</u> .
CGRFA	Commission on Genetic Resources for Food and Agriculture. Permanent forum established in 1983 under the UN Food and Agriculture Organization (<u>FAO</u>), where governments discuss and negotiate matters relevant to genetic resources for food and agriculture.
Chair	Presiding officer of a meeting .
Chair's compilation	Text prepared by the presiding officer of a meeting that lays out proposals made by delegations.
Chair's text/draft	Proposal prepared by the presiding officer of a meeting to assist reaching consensus .
Chairman	Title of the presiding officer of a meeting , and way he/she should be addressed. Synonym: "Chairperson" or " <u>Chair</u> ."
Chapeau	Phrase at the beginning of an article or paragraph to guide the interpretation of this article or paragraph.
Chemical Review Committee	<u>Subsidiary body</u> under the <u>Rotterdam Convention</u> .
CHM	<u>Clearing-house</u> Mechanism
CIS	Commonwealth of Independent States. A community of States and economic union composed of 12 former constituent republics of the Soviet Union.

CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora. Adopted in 1973, and entered into force in 1975.
Clean Development Mechanism	One of the three market-based mechanisms under the Kyoto Protocol to the UN Framework Convention on Climate Change (UNFCCC), whereby developed countries may finance greenhouse gas emissions-avoiding projects in developing countries, and receive credits for doing so which they may apply towards meeting mandatory limits on their own emissions (UNFCCC).
Clean technologies	Both process and product engineering that reduces the pollutants and environmental impacts inherent in industrial production.
Clearing house	Mechanism, which facilitates and simplifies exchange of information or transactions among multiple Parties .
Climate change	Change of climate, which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods (UNFCCC).
Climate conventions	The UN Framework Convention on Climate Change (UNFCCC) and the Kyoto Protocol .
Closed-door meeting	Meeting to which access is restricted. Usually restricted to Parties and excludes observers .
CMS	Convention on Migratory Species of Wild Animals. Also called the "Bonn Convention". Adopted in 1979, and entered into force in 1983.
Coalition	A group of like-minded States or delegations that work together towards a common objective.
Code of conduct	Set of rules to guide behaviour and decisions.
Codex	Usually reference to a code of law. Also used as shorthand for Codex Alimentarius. A publication on food standards maintained jointly by the UN Food and Agriculture Organization (FAO) and the World Health Organization (WHO).

COFI	Committee on Fisheries of the UN Food and Agriculture Organization (FAO).
COFO	Committee on Forests of the UN Food and Agriculture Organization (FAO).
Committee	Subset of a Plenary , open to all Parties , established to perform particular tasks (e.g., drafting committee), address a particular issue (e.g., credentials committee) or a particular set of agenda items (then equivalent to a working group). Committees make recommendations to the Plenary.
Community forestry	Forestry management that includes local people in planning and implementing forestry activities.
Competent Authority	Governmental authority designated by a Party to be responsible for receiving the notification of a transboundary movement of hazardous wastes or other wastes , and any information related to it, and for responding to such a notification (Basel Convention).
Complementarity	Funding principle according to which funded activities must be coherent with national programmes and policies to maximize global environmental benefits.
Compliance	Fulfilment by a Party of its obligations under an international agreement .
Compliance Committee	Committee mandated to review compliance with the provisions of an international agreement . The powers of compliance committees vary according to each agreement.
Conference of the Parties	One of the designations for the main negotiating body under an international agreement . The COP is a policy-making body that meets periodically to take stock of implementation of the agreement and adopt decisions , resolutions , or recommendations for the future implementation of the agreement.

Consensus	A mode of adoption of decisions , resolutions , or recommendations without voting. A decision is adopted by consensus if there is no formal explicit objection made. Whether there is consensus on an issue or not is determined by the presiding officer on the basis of the views expressed by delegate s and his/her subjective assessment of the sense of the meeting .
Contact group	An informal group formed during negotiations to reach consensus on an issue proving particularly contentious. Open to all Parties and sometimes to observers .
Contracting State	A State which has consented to be bound by an international agreement , whether or not the international agreement has entered into force (Vienna Convention on the Law of Treaties).
Contribution	Amount that a Party owes annually to the general trust fund of an agreement or an international organization. Determined on the basis of an indicative scale adopted by the governing body of the agreement or the international organization.
Convention	A binding agreement between States. Generally used for formal multilateral instruments with a broad number of Parties .
COP	Conference of the Parties
COP/MOP	Conference of the Parties to a Convention serving as Meeting of the Parties to a Protocol (e.g., Biosafety Protocol COP/MOP).
Corr.	Stands for “corrigendum”. Used to reference corrected versions of documents during a meeting .
Council of the European Union	The Council of the European Union forms together with the European Parliament the legislative arm of the EU. It is composed of Ministers from all the EU Member States and presided by the representative of the country currently holding the Presidency of the EU.
COW	Committee of the Whole. Subset of a Plenary , open to all Parties , to facilitate negotiations on specific issues.

CPF	Collaborative Partnership on Forests. A partnership of 14 international organizations, the work of which has relevance to forests.
CRAMRA	Convention for the Regulation of Antarctic Mineral Resource Activities. One of the agreements of the Antarctic Treaty System (ATS). Adopted in 1988, not yet entered into force.
CRC	<u>Chemical Review Committee</u>
Credentials	A document evidencing a person's authority. Signed by the Head of State or Government or other high authority. Without credentials in order, a person is not considered a delegate and cannot legally act on behalf of his/her State and participate in decision making.
Credentials Committee	A committee established by the Plenary of a meeting to review the credentials submitted by delegations.
CRIC	Committee for the Review of Implementation of the Convention. Within the context of the UN Convention to Combat Desertification (UNCCD), the subsidiary body that reviews how Parties implement their commitments under the Convention.
CRP	Conference Room Paper. Working documents during negotiations. The acronym is also used to reference these documents.
CSD	Commission on Sustainable Development. Called for in Agenda 21 and established by ECOSOC as the highest level forum within the UN on sustainable development. Mandated to monitor the implementation of Agenda 21 . And the JPOI .
CST	Committee on Science and Technology. Subsidiary body established under the UN Convention to Combat Desertification (UNCCD) to provide advice to the Conference of the Parties on scientific and technical matters regarding the combat against desertification .

D	
DCPI	Division of Communications and Public Information of UNEP .
DEC	Division of Environmental Conventions of UNEP .
Decision	Formal expression of the will of the governing body of an international organization or international agreement . Usually binding .
Decision Guidance Document	Document that provides information that would assist a country in making an import decision on a chemical listed in Annex III to the Rotterdam Convention .
Declaration	A formal statement of aspirations issued by a meeting . Usually issued by high-level representatives. A declaration is not binding .
Declaratory	Said of something that declares an intention, opinion or reserve, rather than expresses an agreed commitment.
Declaratory interpretation	Statement made at the time of signature or ratification of an international agreement . Spells out a State's interpretation of one or more of the provisions of the agreement.
Deep seabed	Synonym for " The Area " under the UN Convention on the Law of the Sea (UNCLOS).
Deforestation	The direct human-induced conversion of forested land to non-forested land (UNFCCC).
Delegate	Representative of a State or organization who has been authorized to act on its behalf and whose credentials are in order.
Delegation	Team of delegates to a meeting from the same country or organization.
DEPI	Division of Environmental Policy Implementation of UNEP .
Derivative	Any processed part of an animal, plant or body fluid.

Desertification	Degradation of land in arid, semi-arid and dry sub-humid areas, resulting from various factors, including climatic variations and human activities (UNCCD).
Designated National Authority	The national agency responsible for addressing specific issues or acting as the focal point for an MEA .
DEWA	Division of Early Warning and Assessment of UNEP .
DGD	Decision Guidance Document
DGEFC	Division of Global Environment Facility Cooperation of UNEP .
Diplomatic Conference	Conference of plenipotentiaries held to adopt and sign an international agreement . The text of the agreement has usually been negotiated before the Conference convenes.
Dispute	Disagreement on a point of law (e.g., the interpretation of an international agreement) or fact (e.g., an action taken by a State).
DNA	Designated National Authority
DPDL	Division of Policy Development and Law of UNEP .
Drafting group	Informal group established by the presiding officer of a meeting , committee , or working group to draft consensus text.
DRC	Division of Regional Cooperation of UNEP .
DSA	Daily Subsistence Allowance. Allowance paid to UN staff or delegates to a UN meeting , which is intended to account for lodging, meals, gratuities and other business-related expenses during the period of the meeting.
DTIE	Division of Trade, Industry and Economics of UNEP .
E	
Earmarked	Dedicated to a particular purpose. Usually said of funds or contributions .

EC	<u>European Community</u>
Economic Instruments	One of the tools for environmental protection that make use of fiscal incentives (subsidies) and deterrents (taxes), as well as market measures such as tradeable emissions permits, rather than regulating specific outcomes.
ECOSOC	UN Economic and Social Council. One of the principal organs of the UN, addressing economic, social, cultural, educational, health, environmental and other related matters.
Ecosystem	Dynamic complex of plant, animal, micro-organism communities and their non-living environment, interacting as a functional unit (<u>CBD</u>). Ecosystems are irrespective of political boundaries.
Ecosystem approach	Strategy for the integrated management of land, water and living resources that promotes conservation and <u>sustainable use</u> in an equitable way (<u>CBD</u> , <u>FAO</u>).
Ecosystem services	Processes and functions provided by natural <u>ecosystems</u> that sustain life and are critical to human welfare.
Eco-tourism	Travel undertaken to witness sites or regions of unique natural or ecologic quality, or the provision of services to facilitate such travel.
EGTT	Expert Group on Technology Transfer, a <u>subsidiary body</u> under the UN Framework Convention on Climate Change (<u>UNFCCC</u>).
EIA	<u>Environmental Impact Assessment</u>
EMG	<u>Environmental Management Group</u>
Emission-reduction Unit	A unit equal to one metric tonne of carbon dioxide equivalent, applicable to <u>binding</u> emissions-reductions targets under the <u>Kyoto Protocol</u> , and generated through <u>joint implementation</u> projects (<u>UNFCCC</u>).

Emissions trading	Mechanism under the Kyoto Protocol through which Parties with emissions commitments may trade units of their emissions allowances with other Parties (UNFCCC).
ENB	Earth Negotiations Bulletin. An independent, impartial reporting service providing daily summaries of major international environmental meetings and Conference of the Parties to various MEAs .
Endemic	Native and restricted to a specific geographic area, usually referring to plants or animals.
Enforcement	Range of procedures and actions taken by a State and its competent authorities to ensure that persons or organizations failing to comply with laws or regulations are brought back into compliance or punished through appropriate action.
Entry into force	Coming into legal effect of an international agreement , i.e. time at which an international agreement becomes legally binding for the States that have ratified it or acceded to it or otherwise expressed their consent to be bound by the agreement.
Environmental Impact Assessment	Process by which the environmental consequences of a proposed project or programme are evaluated and alternatives are analyzed. EIA is an integral part of the planning and decision-making processes.
Environmental Management Group	Group created in 1999 by the UN General Assembly to enhance worldwide cooperation in the field of environment and human settlements. The EMG meets periodically. Members are the specialized agencies, programmes and organs of the United Nations system, including secretariats of multilateral environmental agreements, as well as the Bretton Woods Institutions and the World Trade Organization (WTO).
ERU	Emission-reduction Unit

ETIS	Elephant Trade Information System. A database used to compile law enforcement data on seizures and confiscations of elephant specimens, under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).
EU	European Union
EUROBATS	Agreement on the Conservation of Populations of European Bats. One of the agreements under the Convention on Migratory Species of Wild Animals (CMS). Adopted in 1991, and entered into force in 1994.
European Commission	The executive body of the European Union . Alongside the European Parliament and the Council of the European Union, it is one of the three main institutions governing the Union. Its primary roles are to propose and implement legislation, and to act as 'guardian of the treaties' which provide the legal basis for the EU. The Commission negotiates international trade agreements (in the World Trade Organization) and other international agreements on behalf of the EU in close cooperation with the Council of the European Union .
European Community	Most important one of the three European Communities. Originally European Economic Community. That name changed with the Maastricht Treaty in 1992, which at the same time effectively made the European Community the first of three pillars of the European Union , called the Community (or Communities) Pillar.
European Union	The European Union (EU) is an intergovernmental and supranational union of 25 democratic member states. The European Union was established under that name in 1992 by the Treaty on European Union (the Maastricht Treaty). Member in its own right of several international organizations and a Party to various international agreements , sometimes alongside its Member States .
Ex officio	Latin phrase meaning "by virtue of one's position or function."

Ex situ	Latin phrase meaning “not the original or natural environment.”
ExCOP / Ex-COP	Extraordinary Conference of the Parties . Conference of the Parties held outside the normal scheduled cycle of meetings of the Conference of the Parties.
Executive Director	Title of the head of some international organizations (e.g., the Executive Director of UNEP).
Executive Secretary	Title of the head of some international organizations or Secretariats of MEAs (e.g., Executive Secretary of the Convention on Biological Diversity).
Extraterritorial	Said of measures or laws that apply beyond a State’s jurisdiction.
F	
FAO	UN Food and Agriculture Organization. The UN specialized organization for agriculture, forestry, fisheries and rural development. Established in 1945.
Final clauses/provisions	Clauses/provisions of an international agreement that set the rules of the functioning of the agreement.
Financial rules	Rules governing the financial administration of an international organization, a Conference of the Parties , subsidiary bodies , and the Secretariat .
FoC	Friends of the Chair
Focal point	An official or agency designated by a government to serve as the focus or channel of communications for a particular issue or agreement .
FoE	Friends of the Earth. A non-governmental organization .

Framework convention	Convention that provides a decision-making and organizational framework for the adoption of subsequent complementary agreements (e.g., Protocol). Usually contains substantial provisions of a general nature, the details of which can be provided in the subsequent agreements.
Friends of the Chair	An informal group of a few prominent negotiators invited to assist the Chair of a meeting, working group , or contact group to develop a consensus proposal on a specific issue.
Full powers	A document emanating from the competent authority of a State designating a person or persons to represent the State for negotiating, adopting or authenticating the text of an international agreement , for expressing the consent of the State to be bound by an international agreement, or for accomplishing any other act with respect to an international agreement.
G	
G77	Originally group of 77 developing countries established in 1964 at the first session of UNCTAD . Now gathering 132 developing States. The Group seeks to harmonize the positions of developing countries prior to and during negotiations. China sometimes also associates itself with the G77, in which case the group is referred to as "G77/China" or "G77 plus China."
GATT	General Agreement on Tariffs and Trade. The countries who signed the GATT occasionally negotiated new trade agreements. Each such set of agreements was called a "round". The Uruguay round in 1993 created the World Trade Organization WTO to replace the GATT.

Gavel	<p>1) Hammer used by the presiding officer of a meeting to recall delegations to order and/or signal the adoption of decisions, resolutions, or recommendations.</p> <p>2) Also used as verb in many expressions:</p> <ul style="list-style-type: none"> - “Gavel the meeting to a close”: to declare a meeting closed. - “Gavel down objections”: to silence delegates who are vociferously raising objections. - “Gavel through a decision”: to strike the gavel at a pace that does not allow time for delegations to raise objections.
GBF	<u>Global Biodiversity Forum</u>
GBO	<u>Global Biodiversity Outlook</u>
GC	<u>Governing Council</u>
GCOS	Global Climate Observing System
GEF	<u>Global Environment Facility</u>
General Assembly	Shorthand for the UN General Assembly. The main political body of the United Nations. It is composed of representatives of all Member States , each of which has one vote.
General clauses/provisions	Clauses/provisions of an international agreement or decision that create the context, principle and directions helping the understanding and application of the rest of the agreement or decision.
Genetic Restriction Use Technologies	Genetic engineering of plants to produce sterile seeds.
GEO	<u>Global Environment Outlook</u>
GEOSS	<u>Global Earth Observation System of Systems. A global system of earth observation systems (10 year implementation plan agreed in 2005).</u>
GESAMP	Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection. Established in 1967 to advise sponsoring UN agencies on the scientific aspects of marine pollution.
GHGs	<u>Greenhouse gases</u>
GHS	Globally Harmonized System of Classification and Labeling of Chemicals. Managed by an ECOSOC sub-committee of experts.

Global Biodiversity Forum	Open and independent mechanism, founded in 1993, to encourage analysis, dialogue and partnership on key ecological, economic, social and institutional issues related to biodiversity .
Global Biodiversity Outlook	Periodic report prepared by the Secretariat of the Convention on Biological Diversity (CBD) on the status and trends of biological diversity at the global and national level, as well as the steps taken to conserve and use sustainably biodiversity and share equitably the benefits arising out of the utilization of genetic resources.
Global Compact	A UN initiative launched in 1999 to bring the private sector together with UN agencies and civil society to support ten principles related to human rights, labour, anti-corruption and the environment.
Global Environment Facility	Launched in 1991, the Global Environment Facility (GEF) provides grant and concessional funds to developing countries for projects and programmes targeting global environmental issues: climate change, biological diversity, international waters, ozone layer depletion, land degradation and persistent organic pollutants. Its implementing agencies are UNEP , UNDP, and the IBRD . Designated as the operating entity of the financial mechanism for some MEAs (e.g., the CBD and the UNFCCC).
Global Environment Outlook	A periodic report that provides a comprehensive overview of the state of the global environment. Published every five years by UNEP . Completed by the GEO Yearbooks, published annually.
Global Taxonomy Initiative	Initiative established by the Conference of the Parties to the Convention on Biological Diversity (CBD) to address the lack of taxonomic information and expertise around the world.
GMEF	Global Ministerial Environment Forum. A ministerial-level forum on environmental policy open to all States. Held periodically in conjunction with the sessions of the Governing Council of UNEP .

GMO	Genetically modified organism. Organism, plant or animal modified in its genetic characteristics by inserting a modified gene or a gene from another variety or species.
Governing Council	The decision-making body of the UN Agencies, Programme and Funds, eg: Environment Programme (UNEP). Meets annually through regular and special sessions.
GPA	Global Programme of Action for the Protection of the Marine Environment from Land-based Activities. Adopted in 1995 and administered by UNEP .
GRASP	Great Apes Survival Project. Partnership launched in 2001 to save the great apes and their habitat . Jointly administered by UNEP and UNESCO .
Greenhouse gases	Atmospheric gases that trap the heat and are responsible for warming the earth and climate change . The major greenhouse gases are: carbon dioxide (CO ₂), methane (CH ₄) and nitrous oxide (N ₂ O). Less prevalent – but very powerful – greenhouse gases are hydrofluorocarbons (HFCs), perfluorocarbons (PFCs) and sulphur hexafluoride (SF ₆). Those gases are regulated under the UN Framework Convention on Climate Change (UNFCCC) and the Kyoto Protocol . Some greenhouse gases are also regulated under the Montreal Protocol for their effects on the ozone layer.
GRID	Global Resources Information Database. The basis for UNEP 's environmental assessment programme.
GRULAC	Group of Latin American and Caribbean Countries. A regional negotiating group.
GSPC	Global Strategy for Plant Conservation. Outcome-oriented and targeted strategy adopted by the sixth Conference of the Parties to the Convention on Biological Diversity (CBD) to halt the current and continuing rate of loss of plant diversity.
GTI	<u>Global Taxonomy Initiative</u>
GURT _s	<u>Genetic Use Restriction Technologies</u>

H	
Habitat	1) Place or type of site where an organism or population naturally occurs (CBD). 2) Shorthand for UN-Habitat .
Hard law	Term used to describe the legally binding nature of various agreements or provisions, which leave little room for discretion. Often opposed to soft law .
Hazardous wastes	Wastes that exhibit one or more hazardous characteristics, such as being flammable, oxidizing, poisonous, infectious, corrosive, or ecotoxic (Basel Convention).
Haze Agreement	Shorthand for the ASEAN Agreement on Transboundary Haze Pollution. Adopted in 2002, and entered into force in 2003.
HCFCs	Hydrochlorofluorocarbon. Regulated under the Montreal Protocol .
HFCs	Hydrofluorocarbons. Regulated under the UN Framework Convention on Climate Change (UNFCCC) and the Kyoto Protocol , as well as under the Montreal Protocol .
High-level segment	Segment of a meeting composed of the highest-level representatives of State Parties attending the meeting.
HNS Convention	International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea. Adopted in 1996, not yet entered into force.
Hotspot	1) Area particularly rich in total numbers of species (" biodiversity hotspot"). 2) Area of especially high concentrations of pollutants.

I	
IBM	Issue-Based Modules for the Coherent Implementation of Biodiversity-related Conventions. UNEP web-based analytical tool to facilitate the coherent implementation of biodiversity -related conventions . Aimed to be replicated for the other clusters of MEAs (e.g., chemicals).
IBRD	International Bank for Reconstruction and Development also known as World Bank.
ICCP	Intergovernmental Committee for the Cartagena Protocol (discontinued). Body established by the resumed ExCOP that adopted the Cartagena Protocol on Biosafety to undertake preparations for the first Meeting of the Parties to the Protocol .
ICJ	International Court of Justice. The principal judicial organ of the UN. The ICJ has established a special chamber for environmental disputes.
ICRAN	International Coral Reef Action Network
ICRI	International Coral Reef Initiative. A partnership of governments, international organizations, and non-governmental organizations to preserve coral reefs and related ecosystems . Established in 1994.
ICRW	International Convention for the Regulation of Whaling. Adopted in 1946, and entered into force in 1948. Also called the " Whaling Convention ."
IDR	In-depth review (within the context of the UNFCCC).
IEC	Information, Education, and Communication (under the Montreal Protocol).
IET	International Emissions Trading
IFCS	International Forum on Chemical Safety. Established in 1994 to promote the environmentally sound management of chemicals.

IFI	International financial institution
IIFB	<u>International Indigenous Forum on Biodiversity</u>
ILO	International Labour Organization. UN <u>specialized agency</u> , which seeks the promotion of social justice and internationally recognized human and labour rights. Founded in 1919.
IMF	International Monetary Fund. International organization established to, inter alia, promote international monetary cooperation, foster economic growth and high levels of employment, and provide temporary financial assistance to countries to help ease balance of payments adjustment. Established in 1945.
IMO	International Maritime Organization. UN organization, created in 1948, to address shipping activities.
Implementation	For a <u>Party</u> to an international <u>agreement</u> , process of adopting all relevant policies, laws and regulations, and undertaking all necessary actions to meet its obligations under the agreement.
In situ	Latin phrase meaning “within the original place.” In situ condition is the condition of genetic resources in their <u>ecosystems</u> and natural <u>habitats</u> and, in the case of domesticated or cultivated species, in the surroundings where they have developed their distinctive properties (<u>CBD</u>).
INC	Intergovernmental Negotiating Committee. Forum established to negotiate an international <u>agreement</u> .
Incrementality	Funding principle according to which funded activities produce global environmental benefits.

Indigenous people/s	No universal, standard definition. Usually considered to include cultural groups and their descendants who have a historical continuity or association with a given region, or parts of a region, and who currently inhabit or have formerly inhabited the region either before its subsequent colonization or annexation, or alongside other cultural groups during the formation of a nation-state, or independently or largely isolated from the influence of the claimed governance by a nation-state, and who furthermore have maintained, at least in part, their distinct linguistic, cultural and social / organizational characteristics, and in doing so remain differentiated in some degree from the surrounding populations and dominant culture of the nation-state. Also includes people who are self-identified as indigenous, and those recognized as such by other groups.
INF.	Information document. Usually provided during meetings to provide background information to draft decisions , resolutions , and recommendations . These documents are not subject to negotiation.
Informal consultations	Exchange of views among delegations which take place outside the formal setting of negotiations. Usually undertaken with the aim of identifying a compromise position.
In-session documents	Documents distributed during a meeting, such as conference room papers (CRP), limited distribution documents (L. docs), informal documents, etc.
Institutional clauses/provisions	Clauses/provisions of an international agreement that relate to the institutions established under the agreement.
Inter alia	"Among other things." Often used in legal documents to compress lists of Parties etc.
Interlinkages	Connections between and among processes, activities, or international agreements .
International Emissions Trading	Regime that allows Parties subject to emissions reduction targets to buy and sell emissions credits among them (within the Kyoto Protocol context).

International Indigenous Forum on Biodiversity	Group of representatives from indigenous governments, indigenous non-governmental organizations and indigenous scholars and activists (see Indigenous people) organized around the Convention on Biological Diversity (CBD) and other major international environmental meetings to help coordinate indigenous strategies at these meetings and provide advice to governments.
International Seabed Authority	International organization established under the UN Convention on the Law of the Sea (UNCLOS) to address matters related to The Area .
Intervention	Synonym for " statement ."
Invasive species	Introduced species that invades natural habitats .
IOC	Intergovernmental Oceanographic Commission of UNESCO .
IOPC Funds	International Oil Pollution Compensation Funds. Provide compensation for oil pollution damage resulting from spills of persistent oil from tankers. The Funds are: <ul style="list-style-type: none"> - 1971 Fund, established by the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage. Adopted in 1971, replaced by the 1992 Protocol to the 1969 Civil Liability Convention. - 1992 Fund, established by the 1992 Protocol to the 1969 Civil Liability Convention. Entered into force in 1996. - Supplementary Fund, established by the 2003 Protocol to the 1969 Civil Liability Convention. Entered into force in 2005.
IPCC	Intergovernmental Panel on Climate Change. Established jointly by the World Meteorological Organization (WMO) and UNEP in 1998 to assess the scientific, technical and socio-economic impacts of climate change .

IPPC	1) International Plant Protection Convention. Adopted in 1952. Revised in 1997, and entered into force in 2005. 2) Integrated Pollution Prevention and Control.
IPRs	<u>Intellectual property rights</u>
ISA	<u>International Seabed Authority</u>
ISO	International Organization for Standardization. Non-governmental organization, the members of which are national standards institutes of 156 countries. Established in 1946 to facilitate the international coordination and unification of industrial standards.
ITLOS	International Tribunal for the Law of the Sea. Judicial organ established under the UN Convention on the Law of the Sea (UNCLOS) to deal with disputes related to the law of the sea.
ITPGRFA	International Treaty on Plant Genetic Resources for Food and Agriculture. Adopted in 2001, and entered into force in 2004.
ITTA	International Tropical Timber Agreement. Commodity agreement that regulates trade in tropical timber. Adopted in 1983 and renegotiated periodically .
ITTC	International Tropical Timber Council. The governing and policy-making body of the International Tropical Timber Organization (ITTO). Meets annually.
ITTO	International Tropical Timber Organization. Established under the International Tropical Timber Agreement (ITTA) to administer the Agreement.
IUCN	The World Conservation Union. A hybrid international organization, the membership of which is composed of governments and non-governmental organizations .
IUU	Illegal, Unregulated, and Unreported (fishing).

IWC	International Whaling Commission. The governing body of the International Convention for the Regulation of Whaling (ICRW).
J	
Jakarta Mandate	Shorthand for Jakarta Mandate on Marine and Coastal Biological Diversity. Global consensus on the importance of marine and coastal biological diversity, adopted in 1995 by the second Conference of the Parties to the Convention on Biological Diversity (CBD). Includes the programme of work on marine and coastal biodiversity under the CBD.
Jl	Joint Implementation
JLG	Joint Liaison Group
Johannesburg Plan of Implementation	One of the outcomes of the 2002 World Summit on Sustainable Development (WSSD). Outlines a framework for action to implement the commitments undertaken at the 1992 UN Conference on Environment and Development (UNCED), including goals and time-bound targets.
Joint Implementation	A mechanism to implement the Kyoto Protocol through which a developed country can receive emissions-reduction units when it helps to finance projects that reduce net greenhouse gas emissions in another developed country (UNFCCC).
Joint Liaison Group	Group of representatives of the Secretariats of the UN Framework Convention on Climate Change (UNFCCC), the Convention on Biological Diversity (CBD), and the UN Convention to Combat Desertification (UNCCD). Set up to explore common activities related to climate change, biodiversity, and desertification .
JPOI	Johannesburg Plan of Implementation
JUSCANZ/JUSSCANZ	A negotiating group composed of Japan, the US, Switzerland, Canada, Australia, Norway and New Zealand. Other delegations sometimes associate with it.

K	
Kyoto Protocol	Protocol to the UN Framework Convention on Climate Change (UNFCCC). Provides for binding emission reductions for Annex I Parties to the UNFCCC. Adopted in 1997, and entered into force in 2005.
L	
Limited Distribution Documents, L.	L. docs are limited distribution documents.
LDC Expert Group	Panel of experts providing advice to least developed countries (LDCs) on the preparation and implementation of national adaptation programme of action (NAPAs) under the UN Framework Convention on Climate Change (UNFCCC).
LDC Fund	Fund established by the Conference of the Parties to the UN Framework Convention on Climate Change (UNFCCC) to assist least developed countries to undertake activities to adapt to the adverse effects of climate change .
LDCs	Least Developed Countries
Least Developed Countries	Countries at the lowest level of the scale of development. Status defined according to level of income, human resources, and economic vulnerability.
Like-Minded	Group of delegations that share common interests and positions on specific issues.
Like-Minded Megadiverse Countries	A negotiating group of 17 countries, among those that collectively account for 70% of the world's biodiversity . Mainly operates during negotiations on access to genetic resources and benefit sharing under the Convention on Biological Diversity (CBD).
Listing	Inclusion of a product or species in a list of regulated products or species.
LMG	Like-Minded Group
LMMC	Like-Minded Megadiverse Countries

LMO	Living modified organism. Any living organism that possesses a novel combination of genetic material obtained through the use of modern biotechnology (Biosafety Protocol) .
London Convention	Shorthand for the Convention on the Prevention of Marine Pollution by Dumping Waste and Other Matter. Adopted in 1972, and entered into force in 1975. Will be replaced by the 1996 Protocol to the London Convention, when the Protocol enters into force.
LRTAP	Shorthand for the Convention on Long-range Transboundary Air Pollution. Negotiated under the auspices of the UN Economic Commission for Europe. Adopted in 1979, and entered into force in 1983.
LULUCF	Land use, land-use change and forestry. Within the context of the UN Framework Convention on Climate Change (UNFCCC), refers to the impact of the type of land use by humans, and changes in such land use, on greenhouse gas emissions (UNFCCC).
M	
MA	Millennium Ecosystem Assessment . Sometimes also wrongly abbreviated as MEA .
MAB	Man and the Biosphere. A Programme of UNESCO established in 1971. Encourages interdisciplinary research, demonstration and training in natural resource management, and develops the basis, within the natural and the social sciences, for the sustainable use and conservation of biological diversity, and for the improvement of the relationship between people and their environment globally.
MAI	Multilateral Agreement on Investment. Proposed agreement negotiated under the auspices of the Organisation for Economic Cooperation and Development (OECD) between 1995-1998, but which was never adopted.

Management Authority	Within the context of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), national body responsible for implementation of the Convention.
Mandate	What a meeting , organization or individual has been given authority to do.
MARPOL	Shorthand for the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto. Entered into force in 1983.
Marrakesh Accords	Series of decisions adopted at the seventh Conference of the Parties to the UN Framework Convention on Climate Change (UNFCCC), related to the Kyoto Protocol .
MAT	Mutually agreed terms, within the context of the Convention on Biological Diversity (CBD).
May	As negotiating language, “may” entails discretionary action and creates no obligation for the addressee. It is not binding .
MDGs	Millennium Development Goals.
MEA	Multilateral Environmental Agreement
Meeting	Generic term used for conferences, summits , sessions , etc.
Meeting of the Parties	A body equivalent to the Conference of the Parties . The terminology differs according to agreements . In practice, there is a tendency within environment negotiating fora to use “Conference of the Parties” for the conventions and Meeting of the Parties for the protocols .
Megadiverse countries	Countries which collectively account for 70% of the world’s biodiversity .
Member State	State which is a member of an international organization.

Memorandum of Understanding	A simplified type of international instrument, which can be concluded between States, between States and international organizations or between international organizations. MoUs can provide a framework for cooperation or be concluded for specific time-bound activities.
Miami Group	A negotiating group of countries, under the CBD and Biosafety Protocol , which are large, grain exporting countries, and have made considerable investments in genetic engineering.
Micro-organism	Group of microscopic organisms, some of which cannot be detected without the aid of a light or electron microscope, including viruses, prokaryotes (bacteria and archaea), and eukaryotic life forms, such as protozoa, filamentous fungi, yeasts and micro-algae.
MIKE	Monitoring the Illegal Killing of Elephants. A monitoring system established to contribute to an assessment of the impact of decisions on the illegal hunting of elephants, adopted under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).
Millennium Development Goals	A set of eight goals and associated targets to achieve poverty alleviation by 2015, which found their origin in the Millennium Summit .
Millennium Ecosystem Assessment	A global assessment of the earth's ecosystems commissioned by the UN Secretary-General . The MA completed its work in 2005 with the publication of its report. The acronym MEA is often used wrongly for the MA.
Millennium Summit	Meeting of high-level government representatives convened in 2000. The Summit adopted an agenda for the elimination of poverty through the implementation of target-oriented goals.
Mitigation	In the context of the UN Framework Convention on Climate Change (UNFCCC) and its Kyoto Protocol , actions to cut net emissions of greenhouse gases and reduce climate change as a consequence (UNFCCC).

Monterrey Conference	Shorthand for the International Conference on Financing for Development, held in Monterrey, Mexico, in 2002.
Monterrey Consensus	Outcome of the Monterrey Conference .
Montreal Protocol	Shorthand for the Montreal Protocol on Substances that Deplete the Ozone Layer. Protocol to the Vienna Convention for the Protection of the Ozone Layer. Adopted in 1987, and entered into force in 1989.
MOP	Meeting of the Parties
MOS	Meeting of the Signatories
Motion	Formal oral proposal on a matter of procedure.
MoU or MOU	Memorandum of Understanding
MPPI	Mobile Phone Partnership Initiative. Developed in the context of the Basel Convention for the recycling of mobile phones.
Multilateral Environmental Agreement	A generic term for treaties, conventions, protocols , and other binding instruments related to the environment. Often it is applied to instruments the geographic scope of which is wider than a few Parties , but it is also used to include bilateral agreements (i.e., between two States).
Multilateral Fund	Shorthand for the Multilateral Fund for the Implementation of the Montreal Protocol. Assists developing countries to implement the Montreal Protocol .
Must	As negotiating language, “must” creates an obligation to act for the addressee. It is binding .
Mutatis Mutandis	Latin phrase meaning “with the necessary changes” (e.g., “the dispute settlement provisions of the Convention apply mutatis mutandis to the Protocol”).
MYPOW	Multi-Year Programme of Work
N	
NAFTA	North American Free Trade Agreement

NAP	National Action Plan. Required under the UN Convention to Combat Desertification (UNCCD) for the implementation of the Convention.
NAPA	National Adaptation Programme of Action. Prepared by least developed countries under the UN Framework Convention on Climate Change (UNFCCC) for urgent activities to cope with climate change .
National Communication	Under the UN Framework Convention on Climate Change (UNFCCC), document by which a Party informs other Parties of activities undertaken to mitigate climate change .
NBSAP	National Biodiversity Strategy and Action Plan. Required under the Convention on Biological Diversity (CBD) for the implementation of the Convention.
NC	National Communication
NCC	National Compliance Centre (under the Montreal Protocol)
NCSA	National Capacity Self-Assessment for Global Environmental Management. Initiative by the Global Environment Facility that aims to assist countries to assess their capacity needs to implement the Rio Conventions on the basis of synergies between these conventions .
NEPAD	New Partnership for Africa's Development. A framework for action towards the socio-economic development of Africa. Adopted in 2001 by the Organization of African Unity (now African Union).
New and additional financial resources	1) financial resources that are provided in addition to the UN target level of 0.7% of Gross National Product (GNP) for Official Development Assistance (ODA). 2) financial resources that are new and additional to annual general ODA funding which has remained constant or increased, in absolute terms or in ODA/GNP terms.
NGO	Non-governmental organization

NIP	National Implementation Plan, required under the Stockholm Convention on Persistent Organic Pollutants.
Non-governmental organization	Applied to community groups and not-for-profit organizations. In the UN system, it also includes business associations. The term gathers organizations with different mandates (e.g., research, education and awareness building, lobbying, technical assistance, field projects, etc.).
Non-paper	Informal text aimed at facilitating negotiations. It is not a formal proposal.
Non-Party	Refers to a State that has not ratified, acceded, or otherwise become a Party to an international agreement . As a Non-Party, a State may have limited rights to participate in negotiations or deliberations under the agreement, or to invoke provisions of the agreement.
Non-recorded vote	Vote where the way in which each delegation voted is not reported in the official records or the report of the meeting .
NOO	National Ozone Officer (under the Montreal Protocol)
Notification	Formal communication that bears legal consequences (e.g., start of a time-bound period).
NOU	National Ozone Unit (under the Montreal Protocol)
Noumea Convention	Shorthand for the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region. Adopted in 1986, entered into force in 1990.
O	
Objection	Oral or written statement by which a delegation informs a meeting that it objects to the adoption of a proposed decision, resolution, recommendation , or measure.

Obligation clauses/provisions	Clauses/provisions of an international agreement or decision that provide for the actions to be taken, individually or jointly, by the Parties to achieve the objectives of the agreement or decision.
Observer	Non-state or State actors invited to participate in a limited capacity in discussions during negotiations. Observers are not allowed to negotiate text and have no voting powers. In practice, some observer States do negotiate, although they do not participate in final decision making.
ODA	<u>Official Development Assistance</u>
ODS	Ozone-depleting substance (under the <u>Montreal Protocol</u> and the <u>Vienna Convention</u>)
OECD	The Organisation for Economic Co-operation and Development is an organization of 30 advanced economies in North America, Europe, and the Pacific region that share a commitment to democratic government and a market economy. Originated in 1948 as the Organisation for European Economic Co-operation (OEEC), to help administer the Marshall Plan for the reconstruction of Europe after World War II.
OECS	Organisation of Eastern Caribbean States. Regional cooperation organization created in 1981.
OEWG	<u>Open-ended Working Group</u>
Official Development Assistance	Also known as “foreign aid”. Consists of loans, grants, technical assistance and other forms of cooperation from developed to developing countries.
OP 5, 13, XX...	<u>Operational Programme</u> 5, 13, XX...
OPEC	Organization of the Petroleum Exporting Countries. Organization of eleven developing countries whose economies rely on oil export revenues. Created in 1960 to, inter alia, achieve stable oil prices, which are fair and reasonable for both producers and consumers.

1 This represents the preferred international usage of the term.

Open-ended	Said of a meeting which is not time-bound and participation is not restricted.
Operational Programme	Conceptual and planning framework of the Global Environment Facility for the design, implementation , and coordination of a set of projects in a particular focal area. Developed on the basis of priorities identified by Parties to various MEAs , the Council of the Global Environment Facility, advice from the Scientific and Technical Advisory Panel (STAP) and country-driven projects. There are 15 Operational Programmes.
Operative paragraphs	Paragraphs of an international agreement, decision, resolution, or recommendation that provide for the actions to be taken, individually or jointly, by the Parties to achieve the objectives of the agreement, decision, resolution, or recommendation.
OPRC	Convention on Oil Pollution Preparedness, Response and Cooperation. Adopted in 1990, and entered into force in 1995.
Order	1) "Call to order": direction by the presiding officer of a meeting that a delegate or group of delegates should be silent to allow the meeting's proceedings to take place in an orderly manner. 2) "Out of order": the status of something that is not in accordance with the rules of procedure .
Ozone Secretariat	Secretariat administered by UNEP . Services the Vienna Convention and the Montreal Protocol .
P	
Package deal	Proposal that includes several issues, not necessarily related, which has to be accepted or rejected as a whole.
PAH	Polycyclic Aromatic Hydrocarbon
PAMs	Policies and Measures

Party	Refers to a State that has ratified, acceded to, or otherwise formally indicated its intent to be bound by an international agreement , and for which the agreement is in force. Also called “Contracting Party.” While most Parties have signed the instrument in question, it is not usually a necessary step in order to become a Party (see “ accession ”).
Patent	Government grant of temporary monopoly rights on innovative processes or products.
PCA	Permanent Court of Arbitration
Permanent Forum on Indigenous Issues	Advisory body to the ECOSOC , established in 2000 to discuss indigenous issues related to economic and social development, culture, the environment, education, health and human rights.
Persistent organic pollutants	Chemicals that remain intact in the environment for long periods of time. Regulated under the Stockholm Convention .
PFCs	Perfluorocarbons. Regulated under the UN Framework Convention on Climate Change (UNFCCC).
PFII	Permanent Forum on Indigenous Issues
PGRFA	Plant genetic resources for food and agriculture. Any genetic material of plant origin of actual or potential value for food and agriculture (ITPGRFA).
PIC	1) Prior informed consent . Used in the context of negotiations on access to genetic resources and benefit sharing, as well as on traditional knowledge of local and indigenous communities (see indigenous people). Also used in the context of the PIC Convention . 2) Pacific Island Country
PIC Convention	Shorthand for the Rotterdam Convention on the Prior Informed Consent Procedure For Certain Hazardous Chemicals and Pesticides in International Trade. Also called the “ Rotterdam Convention .”

Plenary	The main meeting format of a <u>Conference of the Parties</u> or a <u>Subsidiary Body</u> . <u>Decisions</u> or <u>recommendations</u> approved by sub-sets of the Plenary have to be forwarded to the Plenary for formal final <u>adoption</u> .
Plenipotentiary	Individual who carries or has been conferred the <u>full powers</u> to engage the State he or she represents.
Point of order	Formal question raised by a <u>delegation</u> as to whether the proceedings are in order or a particular action by a <u>delegate</u> or a presiding officer follows the <u>rules of procedure</u> .
Policies and Measures	Steps taken or to be taken by countries to achieve <u>greenhouse gas</u> emissions targets under the <u>Kyoto Protocol (UNFCCC)</u> .
POPRC	Persistent Organic Pollutant Review Committee, a <u>subsidiary body</u> under the <u>Stockholm Convention</u> .
POPs	<u>Persistent organic pollutants</u>
POPs Convention	Shorthand for the <u>Stockholm Convention on Persistent Organic Pollutants</u> .
Poverty Reduction Strategy Paper	Country-led, country-written document that provides the basis for assistance from the <u>World Bank</u> and the International Monetary Fund (<u>IMF</u>), as well as debt relief under the Heavily Indebted Poor Country initiative. A Poverty Reduction Strategy Paper describes a country's macroeconomic, structural, and social policies and programs to promote growth, and the country's objectives, policies, and measures for poverty reduction.
PPP	<u>Public-Private Partnership</u>
Preamble	Set of opening <u>statements</u> , called " <u>recitals</u> ," of an international <u>agreement</u> , <u>decision</u> , <u>resolution</u> , or <u>recommendation</u> that guides the interpretation of the document.

Preambular paragraphs	The paragraphs found in the Preamble to an international agreement, decision, resolution, or recommendation and that help interpreting the document.
Precautionary approach/ principle	Approach/principle according to which the absence of full scientific certainty shall not be used as a reason for postponing action where there is a risk of serious or irreversible harm to the environment or human health. The approach/principle is embedded in several instruments, including Principle 15 of the 1992 Rio Declaration on Environment and Development. Whereby the precautionary approach is often used in negotiations to infer a less definite meaning than the precautionary principle.
Prep Com / PrepCom	Preparatory Committee. A committee mandated to prepare a meeting . It can be mandated to address substantive issues or not. The phrase is often used to refer to the meetings of the preparatory committee.
Pre-session documents	Documents prepared by the Secretariat for distribution before a meeting . These include draft decisions, resolutions, recommendations, non-papers , information documents (INF. docs), etc.
Presiding Officer	Delegate elected by a meeting to preside over the proceedings, maintain order and lead the work of the meeting.
Primary forest	Forest largely undisturbed by human activities. Also called “natural forest.”
Prior informed consent	Consent to be acquired prior to accessing genetic resources or shipping internationally regulated chemicals, substances or products. Granted by competent authorities on the basis of the information provided by the partners to a prior informed consent agreement.
Proces verbal	Record of all statements made during a meeting .
Protected Area	Geographically defined area which is designated or regulated, and managed to achieve specific conservation objectives (CBD).

Protocol	1) International legal instrument appended or closely related to another agreement . 2) Rules of diplomatic procedure, ceremony and etiquette. 3) Department within a government or organization that deals with relations with other missions.
Provisional agenda	Draft agenda of a meeting that has yet to be adopted.
PRSP	<u>Poverty Reduction Strategy Paper</u>
PRTR	Pollutant release and transfer register
Public-Private Partnership	A cooperative initiative between public (i.e., governmental) and private entities (including businesses, NGOs , etc.) toward a specific action.
Q	
QELROS	<u>Quantified emissions limitation or reduction commitments</u>
Quantified emissions limitation or reduction commitments	Legally binding targets and timetables under the Kyoto Protocol for the limitation or reduction of greenhouse-gas emissions by developed countries (UNFCCC).
Quorum	The minimum number of delegations that must be present for a meeting to start or decisions to be made. The quorum is stated in the rules of procedure , and it may be expressed in absolute numbers or as a percentage of an overall number (e.g., 60% of the Parties).
R	
Ramsar	Shorthand for the Ramsar Convention on Wetlands of International Importance Especially as Waterfowl Habitat. Adopted in 1971, and entered into force in 1975.
Ramsar List	List of Wetlands of International Importance. List of wetlands which have been designated by the Conference of the Contracting Parties to the Ramsar Convention as internationally important according to one or more of the criteria that have been adopted by the Conference of the Parties.

Ramsar Site	Wetlands designated by the Conference of the Contracting Parties to the Ramsar Convention for inclusion in the Ramsar List because they meet one or more of the Ramsar criteria.
Range State	A State whose territory is within the natural range of distribution of a species.
Rapporteur	Delegate (more specifically, a member of the Bureau) elected/nominated to prepare or oversee the preparation of the report of a meeting .
Ratification	Formal process by which a Head of State or appropriate governmental official or authority signs a document which signals the consent of the State to become a Party to an international agreement once the agreement has entered into force and to be bound by its provisions.
Recitals	Set of opening statements of an international agreement, decision, resolution, or recommendation that guides the interpretation of the document. Also referred to as " Preamble " or " preambular paragraphs ."
Recommendation	Formal expression of an advisory nature of the will of the governing body of an international organization or international agreement . It is not binding .
Recorded vote	Vote where the way in which each delegation voted is reported in the official records or report of the meeting .
Reforestation	The direct human-induced conversion of non-forested land to forested land through planting, seeding and/or the human-induced promotion of natural seed sources, on land that was forested but that has been converted to non-forest land (UNFCCC).
Registration	Process by which delegates are issued a pass to access a meeting's venue and discussions.
Report of the meeting	Document that records all discussions and results of a meeting .

Reservation	Unilateral statement made by a State upon signature, ratification, acceptance, approval or accession to an international legal instrument, indicating that it wishes to exclude or alter the legal effect of certain provisions in their application to that State. Reservations are generally permitted, but some international agreements expressly prohibit reservations.
Resolution	Formal expression of the opinion or will of the governing body of an international organization or international agreement . Usually non- binding .
Rev.	Stands for "revision". Used to reference revised versions of documents during negotiations.
Review of Significant Trade	Review of the biological, trade and other relevant information on species listed in Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), and subject to levels of trade that are significant in relation to the population of the species, in order to identify problems concerning the implementation of the Convention.
RFMO	Regional Fisheries Management Organization

Rio Conference	<p>Shorthand for the United Nations Conference on Environment and Development (UNCED), held in Rio de Janeiro, Brazil, in 1992. The outcomes of the Conference include:</p> <ul style="list-style-type: none"> - The UN Framework Convention on Climate Change (UNFCCC) - The Convention on Biological Diversity (CBD) - Agenda 21 - The establishment of the Commission on Sustainable Development (CSD) - The Rio Declaration on Environment and Development - The Non-Legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, conservation and sustainable Development of all Types of Forests (also known as “the Forest Principles”) <p>UNCED also led to the negotiation and adoption of the UN Convention to Combat Desertification (UNCCD).</p>
Rio Convention (s)	<p>Used to designate the conventions negotiated and adopted during the Rio Conference in 1992. These Conventions are the Convention on Biological Diversity (CBD) and the UN Framework Convention on Climate Change (UNFCCC), to which the UN Convention to Combat Desertification (UNCCD), adopted in 1994, is also added.</p>
Rio Declaration	<p>Shorthand for the Rio Declaration on Environment and Development adopted at the Rio Conference, the UN Conference on Environment and Development in 1992. Set of 27 Principles on sustainable development.</p>
RMPs	Refrigerant Management Plans
Roster of experts	<p>Experts nominated to perform certain tasks as defined by the governing body of an international agreement or international organization.</p>

Rotterdam Convention	Shorthand for Rotterdam Convention on the Prior Informed Consent Procedure For Certain Hazardous Chemicals and Pesticides in International Trade. Also referred to as the “PIC Convention.” Adopted in 1998, and entered into force in 2004.
RSPB	Royal Society for the Protection of Birds, a non-governmental organization .
RST	Review of Significant Trade
Rules of Procedure	Set of rules adopted by a meeting to govern the work and decision making of its formal settings (i.e., for Plenary or working groups).
S	
SACEP	South Asia Cooperative Environment Programme
SADC	Southern African Development Community
SAICM	Strategic Approach to International Chemicals Management. Approach developed on the basis of an open-ended consultative process involving representatives of all stakeholder groups, jointly convened by the Inter-Organization Programme for the Sound Management of Chemicals (IOMC), the Intergovernmental Forum on Chemical Safety (IFCS) and UNEP . Adopted in 2006.
SBI	In the context of the UN Framework Convention on Climate Change (UNFCCC), the Subsidiary Body for Implementation. Advises the Conference of the Parties to the Convention and/or the Meeting of the Parties to the Kyoto Protocol in the form of recommendations and draft decisions .
SBSTA	In the context of the UN Framework Convention on Climate Change (UNFCCC), the Subsidiary Body for Scientific and Technological Advice. Advises the Conference of the Parties to the Convention and/or the Meeting of the Parties to the Kyoto Protocol in the form of recommendations and draft decisions.

SBSTTA	In the context of the Convention on Biological Diversity (CBD), the Subsidiary Body for Scientific, Technical and Technological Advice. Advises the Conference of the Parties to the Convention and/or the Meeting of the Parties to the Biosafety Protocol in the form of recommendations .
Scale of assessment	Agreed formula for determining the scale of contribution of each Member State of an international organization.
SCCF	Special Climate Change Fund
SEA	Strategic environmental assessment
Secret ballot/vote	Type of vote. Organized to ensure that each delegation 's vote remains secret.
Secretariat	The body established under an international agreement to arrange and service meetings of the governing body of that agreement, and assist Parties in coordinating implementation of the agreement. Also performs other functions as assigned to it by the agreement and the decisions of the governing body.
Secretary-General	Head of the UN Secretariat.
Session	Meeting or series of meetings of a particular body (e.g., Eighth Special Session of UNEP Governing Council; "working group II met in four sessions").
Severely Hazardous Pesticide Formulation	Chemical formulated for pesticidal use that produces severe health or environmental effects observable within a short period of time after single or multiple exposure, under conditions of use (PIC Convention).
SFM	Sustainable forest management
Shall	As negotiating language, "shall" creates an obligation for action for the addressee. It is binding .
Should	As negotiating language, "should" entails an advice, not an obligation, to do something. However, while non- binding , it implies a stronger imperative than "may."

Show of hands	Type of voting procedure by which delegations raise a hand or nameplate to signal “yes,” “no,” or “abstain.” A vote by show of hands is a non-recorded vote .
SHPF	Severely Hazardous Pesticide Formulation
Side events	Events taking place concurrently with a meeting . Usually in the form of discussion panels, workshops, seminars, launches, etc. organized either by the Secretariat , States, international organizations or non-governmental organizations .
SIDS	Small Island Developing States. Low-lying coastal countries that share similar development challenges and concerns about the environment, especially their vulnerability to the adverse effects of global climate change. Agenda 21 recognized that SIDS and islands supporting small communities are a special case both for environment and development. Currently 41 SIDS are included in the list used by United Nations Department of Economic and Social Affairs.
Signatory	A State that has negotiated and signed an international agreement .
Signature	Act by which the head of State or government, the foreign minister, or another designated official indicates the authenticity of an international agreement and, where ratification is not necessary, it may also indicate the consent of the State to be bound by the agreement.
Single negotiated text	Draft text compiling all the delegations ’ proposals into a coherent whole.
Sinks	In the context of the UN Framework Convention on Climate Change (UNFCCC) and the Kyoto Protocol , any process, activity or mechanism which removes a greenhouse gas , an aerosol or a precursor of a greenhouse gas from the atmosphere. The major sinks are forests and other vegetation which remove carbon dioxide through photosynthesis (UNFCCC).

Soft law	Term used to describe an agreement or provisions that are so flexible in terms and nature and leave much room for discretion that they have a less binding nature. It may be used to encourage broader adhesion to a proposal.
Sound management	Taking all practicable steps to ensure that management takes place in a manner which protects human health and the environment against the adverse effects of activities, processes, products or substances.
SPAW Protocol	Shorthand for the Protocol Concerning Specially Protected Areas and Wildlife (to the Cartagena Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region). Adopted in 1990, and entered into force in 2000.
Speakers' list	List of delegations seeking the floor (see " To seek the floor "). Maintained by the presiding officer, in the order in which delegations have made the request.
Special Climate Change Fund	A fund established under the UN Framework Convention on Climate Change (UNFCCC) to finance projects relating to adaptation; technology transfer and capacity building; energy, transport, industry, agriculture, forestry and waste management; and economic diversification.
Special session	A session of a body outside and additional to its regularly scheduled sessions. Focused on a particular issue.
Specialized agency	Autonomous international organization linked to the United Nations through special agreement.
Spokesman/spokesperson	A delegate speaking on behalf of a group of countries or organizations.
Sponsor	Delegation which proposes a decision , resolution , recommendation , or amendment for adoption by a meeting .
SPREP	Secretariat of the South Pacific Regional Environment Programme.

Square brackets	Typographical symbols placed around text under negotiation to indicate that the language enclosed is being discussed but has not yet been agreed upon. It is possible to have square brackets within square brackets, as there may be disagreement about both the general provision and the specific language.
Stakeholder	Individuals or institutions (public and private) interested and involved in a process or related activities.
Stalemate	Point at which negotiations make no progress and no possible solution is in sight.
Stalled	Said of negotiations which are making no progress. Usually temporary situation.
Standard Nomenclature	The scientific names adopted by the <u>Conference of the Parties</u> to the Convention on International trade in Endangered Species of Wild Fauna and Flora (<u>CITES</u>) for CITES-listed species.
Standing Committee	<u>Committee</u> established under various international <u>agreements</u> to perform certain functions as agreed to by the <u>Conference of the Parties</u> .
STAP	Scientific and Technical Advisory Panel of the <u>Global Environment Facility</u> . Provides strategic scientific and technical advice to the Global Environment Facility on its strategy and programs.
Statement	Oral or written expression of opinion.
Status quo	Latin phrase meaning “the current state of affairs.”
Steering Committee	Restricted group of individuals planning the work of a major <u>meeting</u> . Deals exclusively with procedural matters.

Stockholm Conference	Shorthand for the UN Conference on the Human Environment, held in Stockholm, Sweden, in 1972. The outcomes of the Stockholm Conference were: <ul style="list-style-type: none"> - the establishment of the UN Environment Programme (UNEP) - the establishment of an Environment Fund - an Action Plan - the Stockholm Declaration
Stockholm Convention	Shorthand for the Stockholm Convention on Persistent Organic Pollutants. Adopted in 2001, and entered into force in 2004. Also referred to as the " POPs Convention."
Stockholm Declaration	One of the outcomes of the 1972 Stockholm Conference . A set of 26 Principles on environmental protection.
Strategic environmental assessment	Procedure for incorporating environmental considerations into national policies, plans and programmes. Sometimes referred to as "strategic environmental impact assessment."
STRP	Scientific and Technical Review Panel, a subsidiary body under the Ramsar Convention .
Sub-committee	Committee created by another committee to address a specific issue.
Subsidiary body	A body, usually created by the governing body of an international agreement or international organization, with a specific mandate (e.g., Subsidiary Body for Scientific, Technical and Technological Advice under the Convention on Biological Diversity). Different from a working group in that it is usually permanently established to assist the governing body.
Sui generis	"Being the only example of its kind; constituting a class of its own; unique". Often used to describe a unique (legal) system.
Summit	Meeting at which the participants are high-level officials, such as Heads of State or Government.
Sustainable development	Development that meets the needs of the present without compromising the ability of future generations to meet their own needs.

Sustainable forest management	Concept according to which the full range of social, economic and environmental values inherent forests are managed and sustained.
Sustainable use	Use in a way and at a rate that does not lead to the long-term degradation of the environment, thereby maintaining its potential to meet the needs and aspirations of present and future generations.
Synergies	Result of joint activities that goes beyond the sum of individual activities, making efforts more effective and efficient.
T	
Tally	Count of positive and negative votes and abstentions.
Taxonomy	Naming and assignment of biological organisms to taxa.
TEAP	Technology and Economic Assessment Panel. Created within UNEP to provide technical information to Parties to the Vienna Convention and the Montreal Protocol on alternative technologies to the use of ozone-depleting substances.
Technology Transfer	Transmission of know-how, equipment and products to governments, organizations or other stakeholders . Usually also implies adaptation for use in a specific cultural, social, economic and environmental context.
Terms of Reference	The mandate and scope for work of a body or individual.
The Area	The seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction. Used interchangeably with “deep seabed.” Regulated under Part XI of the UN Convention on the Law of the Sea (UNCLOS).
TK	Traditional knowledge
To cast a vote	To vote.

To give the floor	Permission granted by the presiding officer of a meeting to make a statement .
To seek the floor	To ask permission to the presiding officer of a meeting to make a statement .
To table a proposal	To present the text of a proposal for consideration by other delegations .
To take the floor	To make a statement during a meeting .
ToRs / TORs	Terms of Reference
Traditional knowledge	The knowledge, innovations and practices of indigenous people and local communities. Traditional knowledge is the object of various MEA provisions, including Article 8(j) of the Convention on Biological Diversity (CBD).
Transboundary movement	Movement from an area under the national jurisdiction of one State to or through an area under the national jurisdiction of another State or to or through an area not under the national jurisdiction of any State.
Travaux préparatoires	Preparatory work. Record of negotiations and other documents which may be of evidentiary value in establishing the meaning of an international agreement .
Treaty	International agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation (Vienna Convention on the Law of Treaties).
TRIPS Agreement	Agreement on Trade-Related Aspects of Intellectual Property Rights. One of the agreements under the World Trade Organization (WTO).

Trust fund	Fund to which the income of an international organization is added and from which the expenditures are drawn. There are two main types of trust funds: <ul style="list-style-type: none"> - general trust fund, made up of contributions from Parties and non-earmarked contributions from other sources. - special trust fund, made up of earmarked contributions to pay for the cost of participation of representatives of a specific category of countries in meetings of the governing body and subsidiary bodies.
TT: CLEAR	Technology Transfer Information Clearing House, operated by the Secretariat of the UN Framework Convention on Climate Change (UNFCCC).
Type II Partnership	A multi- stakeholder partnership involving, inter alia, governments, non-governmental organizations , businesses, universities, and/or other institutions. Type of partnership launched at the World Summit on Sustainable Development (WSSD) to implement commitments embedded in the Johannesburg Plan of Implementation .
U	
Umbrella Group	A negotiating group within the climate change negotiations. The loose coalition is usually made up of Australia, Canada, Iceland, Japan, New Zealand, Norway, the Russian Federation, Ukraine and the US.
UN GA / UNGA	UN General Assembly
UN SG	UN Secretary-General
UN/ECA or UNECA	Economic Commission for Africa. One of the regional commissions of ECOSOC .
UN/ECE or UNECE	Economic Commission for Europe. One of the regional commissions of ECOSOC .
UN/ECLAC or UNECLAC	Economic Commission for Latin America and the Caribbean. One of the regional commissions of ECOSOC .
UN/ESCAP or UNESCAP	Economic and Social Commission for Asia and the Pacific. One of the regional commissions of ECOSOC .

UN/ESCWA or ESCWA	Economic and Social Commission for Western Asia. One of the regional commissions of ECOSOC .
Unanimity	Type of decision making. A decision is adopted by unanimity when it has received the support of all delegations . Established by show of hands , voting, or other means.
UNCCD	UN Convention to Combat Desertification in Countries Experiencing Serious Drought and/or Desertification, especially in Africa. Adopted in 1994, and entered into force in 1996. Often referred to as one of the Rio Conventions , as impetus for the Convention was gathered at the 1992 UN Conference on Environment and Development, held in Rio, Brazil (see Rio Conference).
UNCED	UN Conference on Environment and Development, held in Rio, Brazil, in 1992 (see Rio Conference).
UNCLOS	UN Convention on the Law of the Sea. Adopted in 1982, and entered into force in 1994.
UNCTAD	UN Conference on Trade and Development. Established in 1964 to promote the development-friendly integration of developing countries into the world economy and help shape policy debates and thinking on development, with a particular focus on ensuring that domestic policies and international action are mutually supportive in bringing about sustainable development .
Under Secretary-General	Third highest rank in the UN Secretariat.
UNDG	United Nations Development Group. A forum bringing together UN agencies working on development and the Millennium Development Goals .
UNDP	United Nations Development Programme. Created in 1965. Body responsible for coordinating UN development-related work.

UNEP	United Nations Environment Programme. Established in 1972 to lead and coordinate UN environment-related work.
UNESCO	UN Educational, Scientific and Cultural Organization. Created in 1945.
UNFCCC	UN Framework Convention on Climate Change. Adopted in 1992, and entered into force in 1994. One of the <u>Rio Conventions</u> .
UNFF	United Nations Forum on Forests. Created in 2000 for 5 years. Provides a forum for policy development and cooperation on matters related to <u>sustainable forest management</u> .
UN-Habitat	United Nations Human Settlements Programme. Established in 1978 to promote socially and environmentally sustainable towns and cities with the goal of providing adequate shelter for all.
UNIDO	United Nations Industrial Development Organization. Set up in 1966 and became a <u>specialized agency</u> of the UN in 1985. Has responsibility for promoting industrialization throughout the developing world.
UNITAR	United Nations Institute for Training and Research. Established in 1965 to enhance the effectiveness of the UN through appropriate training and research, including through the conduct of training programmes in multilateral diplomacy and international cooperation and training programmes in the field of social and economic development.
UNOG	United Nations Offices at Geneva.
UNON	United Nations Offices at Nairobi.
UNOV	United Nations Offices at Vienna.
UNU	United Nations University. Established in 1973 to contribute, through research and capacity building, to efforts to resolve the pressing global problems that are of concern to the UN and its <u>Members States</u> .

UNWTO	World Tourism Organization. Established in 1970. Now the UN specialized agency , which serves as a global forum for tourism policy issues and practical source of tourism know-how.
UPOV	International Union for the Protection of New Varieties of Plants. International organization established by the 1961 International Convention for the Protection of New Varieties of Plants.
USG	<u>Under Secretary-General</u>
V	
Verbatim	Latin phrase meaning “word-for-word,” “in full.” Way of recording a meeting’s discussions.
Vienna Convention	1) Vienna Convention for the Protection of the Ozone Layer. Adopted in 1984, and entered into force in 1985. 2) Vienna Convention on the Law of Treaties. Adopted in 1969, and entered into force in 1980. 3) Vienna Convention on Succession of States in respect of Treaties. Adopted in 1978, and entered into force in 1996.
Vienna setting or Vienna process	The ‘Vienna Setting’ is an informal negotiating format established to help delegates reach agreement during the final stages of a meeting. It involves a relatively small group of delegates, with each major negotiating group (such as the European Union or the Group of 77) represented by only one or two people mandated to make a deal on behalf of their group. It was a format modelled after the final negotiations on the Cartagena Protocol on Biosafety involving spokespersons for the major negotiating groups.
VOCs	Volatile Organic Compounds
W	
Waigani Convention	Shorthand for the Convention to Ban the Importation into Forum Island Countries of Hazardous and Radioactive Wastes and to Control the Transboundary Movement and Management of Hazardous Wastes within the South Pacific Region. Adopted in 1995, and entered into force in 2001.

Waiver	Agreed exemption from an obligation, usually for a limited period of time.
Wastes	Substances or objects which are disposed of or are intended to be disposed of or are required to be disposed of by the provisions of national law (Basel Convention).
WCMC	UNEP World Conservation Monitoring Centre. The biodiversity assessment and policy implementation arm of UNEP .
WCO	World Customs Organisation. International organization established in 1952 to enhance the effectiveness and efficiency of Customs administrations and promote an honest, transparent and predictable Customs environment.
Weighted voting	System in which the votes of different delegations are not equal but instead counted with reference to an agreed formula.
WEOG	Western European and Others Group
WFP	World Food Programme. Established in 1961. The food aid arm of the UN.
WG	Working Group . Also used for referencing documents from Working Groups.
Whaling Convention	Shorthand for the International Convention for the Regulation of Whaling (ICRW).
WHC	World Heritage Convention. Shorthand for the Convention Concerning the Protection of the World Cultural and Natural Heritage. Adopted in 1972 under the aegis of UNESCO , and entered into force in 1975.
WHO	World Health Organization. The UN specialized agency for issues related to health. Established in 1948.

WHYCOS	World Hydrological Cycle Observing System. Global programme to strengthen the technical and institutional capacities of hydrological services, establish a global network of national hydrological observatories, and promote and facilitate the dissemination and use of water-related information.
WIPO	World Intellectual Property Organization. A UN specialized agency , established in 1970 to administer all matters related to intellectual property. WIPO has established an Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, which meets periodically.
Wise use	Sustainable utilization for the benefit of humankind in a way compatible with the maintenance of the natural properties of ecosystems .
WMO	World Meteorological Organization. One of the UN specialized agencies , established in 1950 to address matters related to meteorology (weather and climate), operational hydrology and related geophysical sciences.
Working Group	<p>1) During a meeting, a sub-division of the Plenary mandated to negotiate specific issues of the agenda, usually arranged by clusters. Open to all Parties.</p> <p>2) Between meetings, a subsidiary body established by the governing body of an international agreement to provide it with advice on specific issues. These working groups can be open-ended and meet periodically or be time-bound and meet once only. Open to all Parties. Example: the Ad Hoc Open-Ended Working Group on Access to Genetic Resources and Benefit Sharing under the Convention on Biological Diversity.</p>

Working languages	Languages in which texts are circulated and considered, and statements may be made during meetings . The official languages of the UN are: Arabic, Chinese, English, French, Russian and Spanish. The working language(s) of a particular meeting may be limited to one language, or may include a variety of languages that extend beyond the six UN languages.
Working paper	Informal paper used during a meeting to support negotiations.
World Heritage Site	Designation for places on earth that are of outstanding universal value to humanity and as such, have been included on the World Heritage List to be protected for future generations to appreciate and enjoy, according to the World Heritage Convention (WHC).
WSSD	World Summit on Sustainable Development. Held in 2002, in Johannesburg, South Africa. The outcomes of the WSSD are: <ul style="list-style-type: none"> - The Johannesburg Declaration on Sustainable Development - The Johannesburg Plan of Implementation - Type II Partnerships
WTO	1) World Trade Organization. An international organization established in 1995 to provide a forum for trade negotiations, handle trade disputes , monitor national trade policies and provide technical assistance and training for developing countries, among others.



Resources On Terminology Relating To Multilateral Environmental Agreements (MEAs)

Additional resources on MEA terminology include:

Basel Convention Glossary:

<http://www.basel.int/press/glossary.pdf>

Belgian Clearing-House Mechanism's Glossary of Terms related to the CBD:

<http://bch-cbd.naturalsciences.be/belgium/glossary/glossary.htm>

Convention on Biological Diversity Controlled Vocabulary:

<http://www.biodiv.org/doc/lists/cbd-voc.pdf>

CITES Glossary:

<http://www.cites.org/eng/resources/terms/index.shtml>

Convention on Migratory Species of Wild Animals website:

<http://www.cms.int/index.html>

European Environment Agency's Glossary of Terms:

<http://www.glossary.eea.eu.int/EEAGlossary/>

Ozone Secretariat website:

<http://www.unep.ch/ozone/index.asp>

Ramsar Glossary:

http://www.ramsar.org/index_about_ramsar.htm#gloss

Rotterdam Convention website:

<http://www.pic.int/index.html>

UN Convention to Combat Desertification Glossary:

<http://www.unccd.int/knowledge/glossary.php>

UN Framework Convention on Climate Change Glossary:

http://unfccc.int/essential_background/glossary/items/2639.php

United Nations Treaty Collection "Treaty Reference Guide":

<http://untreaty.un.org/English/guide.asp>

US Environmental Protection Agency Ozone Depletion Glossary:

<http://www.epa.gov/ozone/defns.html>

World Heritage Convention website:

<http://whc.unesco.org/en/about/>

Annex XI

Sample Forms and Documents

A number of MEAs have developed standardised forms for States to use in the various communications necessary to comply with and enforce the particular MEA. CITES and the Basel Convention in particular have developed a number of standardised forms, letters, and documents; but so have other MEAs (including the Ramsar Convention, see below). This Annex includes a sampling of information relating to such forms.



MODEL DOCUMENT OF ACCESSION TO THE RAMSAR CONVENTION

The Ramsar Convention Secretariat has created a sample document that nations can use as a model when acceding to the Convention. The basic template reads:

I, [name], [title]
in the Government of [name of the country]
do hereby certify that the State of
[name of the country]
accedes to the
Convention on Wetlands of International Importance
especially as Waterfowl Habitat
of 2 February 1971
as amended by the Protocol of 3.12.82,
and accepts the amendments to Articles 6 and 7 of that Convention (1987).
IN WITNESS WHEREOF, I have signed and sealed
this Instrument of Accession
DONE at [name of capital city], [date].
[title and signature]

As the Ramsar site indicates, this document is to be signed by either the Head of State (or Government) or by the Minister of Foreign Affairs. The instrument is then deposited, per the terms of the Convention, with UNESCO. *For more information, see http://www.ramsar.org/index_keys_docs.htm*

The Ramsar Convention also requires that the document of accession to the Convention must be accompanied by the designation of at least one site for the List of Wetlands of International Importance. The designation or designations should

Model Document of Accession to the Ramsar Convention (cont'd)

include an Information Sheet on Ramsar Wetlands (RIS) for each site, as well as a map delineating the boundaries of the site. The RIS includes the basic data (including baseline information) on the designated wetland and provides a common framework for the Secretariat and Parties to compare approaches for protecting designated wetlands. The RIS contains information on fauna, flora, ecological features, hydrological values, use of the wetland, ecological changes undergone by the wetlands and the factors causing them, current conservation policies, and current scientific research, as well as providing criteria justifying its listing as a Ramsar wetland. The Convention's Secretariat and its subsidiary expert body, the Scientific and Technical Review Panel, continuously review the model RIS and its guidelines, as well as the Ramsar Criteria for Identifying Wetlands of International Importance. The full text of the model RIS and the explanatory notes about how to complete it can be found at http://www.ramsar.org/key_ris.htm

The Ramsar Key Documents web page also includes a wide range of other resources, including the text of the Convention and related guidance, including basic documents setting forth criteria to identify Ramsar wetlands. Landmarks in the Convention's history are also included with, for example, summaries of the COPs and national reports, local policies, and significant partnerships.



Additional Resources On Samples And Forms

UN TREATY HANDBOOK

The United Nations has developed a Treaty Handbook that provides information relating to becoming a party to a Treaty (including various MEAs). The Handbook includes, inter alia:

- Model Instrument of Full Powers
- Model Instrument of Ratification, Acceptance, or Approval
- Model Instrument of Accession
- Model Instruments of Reservation/Declaration
- Model Certifying Statement for Registration or Filing and Recording

The Handbook is available on-line at <http://untreaty.un.org/English/TREATYHandbook/frame4.htm>

BASEL CONVENTION FORMS

The Basel Convention home page includes a few forms for download, such as:

- Basel Notification Form <http://www.basel.int/pub/notif.pdf>
- Basel Movement Form <http://www.basel.int/pub/move.pdf>

CITES FORMS

The CITES home page <http://www.cites.org> includes forms that can be downloaded. These forms include, for example:

- Formats for CITES annual and biennial reports (see Notifications mentioned above)
- ICPO-Interpol ECOMESSAGE (Notification to the Parties No. 966 of 7 March 1997)
- Ivory and elephant product seizure (data collection form and explanatory notes) (Notification to the Parties No. 1999/92 of 30 November 1999)

In addition, Guidelines on Co-Operation between Customs Administrations and CITES Management Authorities Managing the Trade in Animals and Plants (in English, French, and Spanish) is available from the CITES Secretariat.

FORMS FOR THE PIC CONVENTION

The Internet home page for the Rotterdam Convention on the Prior Informed Consent (PIC) Procedure for Certain Hazardous Chemicals and Pesticides in International Trade includes various forms for download. These forms include:

- Forms for Notification of Designated National Authority
- Form for Notification of Final Regulatory Action to Ban or Severely Restrict a Chemical (as well as instructions for filling this form out)
- Form for Importing Country Response (and instructions)
- Severely Hazardous Pesticide Formulation (SHPF) Report Forms (with separate forms for Human Health Incidents and for Environmental Incidents)

Additional Resources On Samples And Forms (cont'd)

The forms are available in English, French, and Spanish. For more information, see http://www.pic.int/en/viewpage.asp?Id_Cat=104&mTitre=FORMS+%26+GUIDANCE

BIOSAFETY PROTOCOL FORM FOR NATIONAL REPORTS

In the first Meeting of the Parties of the Cartagena Protocol on Biosafety, a protocol to the Convention on Biological Diversity, the Parties adopted Decision BS-I/9, which establishes a format and timeframe for reporting under the Protocol. The guidance uses a question-and-answer format, with multiple choice and descriptive options for responding. The reporting format may be found at <http://www.biodiv.org/decisions/default.aspx?m=MOP-01&id=8291&lg=0> [or starting at <http://www.biodiv.org/biosafety>, click on "issues: other issues", then "Monitoring and Reporting", then the second paragraph linking to Decision BS-I/9].

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