United Nations Environment Programme
UNEP

Division of Environmental Policy Implementation
DEPI

DRAFT MANUAL

ON

COMPLIANCE WITH AND ENFORCEMENT OF MULTILATERAL ENVIRONMENTAL AGREEMENTS

A COMPANION TO THE 2002 UNEP GUIDELINES ON COMPLIANCE WITH AND ENFORCEMENT OF MULTILATERAL ENVIRONMENTAL AGREEMENTS

November 2004

ACKNOWLEDGMENTS

This Manual, like the Guidelines upon which it expands, is the result of a collaborative process involving a wide range of numerous individuals around the world in drafting sections and case studies, reviewing the text, and suggesting substantive and formatting changes.

This version of the Manual was drafted and edited by Carl Bruch, Elizabeth Mrema, and Amy Hindman of the Division of Environmental Policy Implementation (DEPI) of the United Nations Environment Programme (UNEP). The Manual is being 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 11.

The many MEA Secretariats who lent their expertise to the Manual and the regional workshops deserve special mention. These include the Secretariats (and in many cases their regional centres and experts) of the following: Basel Convention, Convention on Migratory Species, UN Framework Convention on Climate Change and the Kyoto Protocol, Stockholm Convention on Persistent Organic Pollutants (POPs) and the Rotterdam Convention on Prior Informed Consent (PIC), Vienna Convention for the Protection of the Ozone Layer and the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer, the United Nations Economic Commission for Europe (UNECE, which hosts five regional environmental conventions), and the Convention on Biological Diversity. United Nations University's work on implementation of MEAs and linkages among MEAs was invaluable, as well as comments received from UNU in the workshops. The manual also benefited from the feedback from the Organisation for Economic Co-operation and Development (OECD), Regional Environmental Center for Central and Eastern Europe, and South Asia Cooperative Environment Programme.

UNEP is particularly grateful to the Government of Belgium and Government of Norway for their generous support of this project.

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The contents of this Manual do not necessarily reflect the views or policies of UNEP or contributory organizations.

This Manual is still in draft form. UNEP welcomes comments and suggestions, including suggestions for additional case studies and illustrative examples. Please send all comments to:

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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 order tracks that of the Guidelines, with the first part of the Manual devoted to compliance and the second part to enforcement.

The Manual is intended to be used 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 in the form of 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 experiences provide the reader with concrete experiences and applications to illustrate the particular guideline. At the end of many sections, 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, the checklist (like the Guidelines, and the Manual itself) is 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 IV. 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.

For ease of reading, the guidelines are in bold text, the explanatory notes are in standard text, case studies are set forth in boxes, and checklists are also in boxes.

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 to 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 section with an appropriate cross-reference in the other section.

Different Users

There are two primary modes of intended use. First, particular sections will be more relevant to particular users than others. The Manual can provide a primer on the basic considerations and approaches for a particular group of users. Some of the key classes of users are summarized below along with the sections that might be most generally relevant to them.

Users	**Guidelines**	**Pages**
All (for background)	1-9, 35-39	13-31 145-56
Foreign Affairs Officers	10-34, 41(b),	32-144, 191-2,

	43(f), 45-49	248, 274-302
Legislators	20, 22-23, 26, 32, 40-42, 45-46, 48-49	98-9, 104-5, 109, 115, 157-247, 274-7, 281-302
Administrative Agencies (developing and implementing policies, regulations, and institutional frameworks)	20-34, 40-49	98-144, 157-302
Police, Customs, and Other Enforcement Officers	21-22, 25-26, 33-34, 40-43, 47-49	101-4, 109, 116-44, 157-257, 278-302
Judiciary	32, 40-41, 43, 47	115, 157-237, 248-57, 278-80
Educators and Media	26, 30, 33, 41, 43-44, 49	109, 111, 116-9, 178-237, 248-73, 293-302
Civil Society, Local Authorities, Private Sector (i.e., other major stakeholders)	27-33, 41-44, 48	110-9, 178-273, 281-92

The other primary mode for using this Manual is 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 contraband cargo (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 type 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 Index;
- 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. Finally, Annex X includes illustrative forms and documents.

The final reference tool in the Manual is the index, which also cross-references different topics. For those seeking to address a particular issue, the first place to start is the index. 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 experiences 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 country or region.

As noted in the Acknowledgments, this Manual is still in draft form. If you have any suggestions for improving the content or usability of the Manual, please send them to the contact point provided in the Acknowledgments.

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 a set of guidelines dedicated to improving such implementation. These "Guidelines on Compliance with and Enforcement of Multilateral Environmental Agreements" (set forth in Annex I) were developed by the United Nations Environment Programme (UNEP), with the cooperation of over seventy countries 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, international environmental agreements have proliferated. 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 recognized 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. States are now asking what is the best way forward.

There are a number of modest measures that States and MEAs (through their Secretariats and Conferences of the Parties) can adopt that can facilitate compliance with and enforcement of MEAs. The 2002 UNEP 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 for improving compliance and enforcement. It is worth noting here that Governments have expressed particular interest in approaches – such as priority setting and MEA clustering – designed to assist 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.

There are a number of regional guidelines relating to compliance and enforcement, and they often 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 inspiriation from the UNEP Guidelines. These various guidelines include, for example:

- 1999 Caribbean Guidelines for MEA Implementation (http://www.pnuma.org/foroalc/esp/bbexb07i-MEAsImplementationintheCaribbean.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 experience on compliance and enforcement in the context of implementating 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 basically is a handbook explaining how the different tools set forth in the Guidelines may be used. As such, the Manual is explanatory: it summarizes and provides examples of various legal, policy, and institutional approaches to improve MEA implementation at different stages.

The Manual reflects the premise of 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 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 specific examples on 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). All of these guidance documents are advisory, but they can provide valuable 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, and the regional guidelines or MEA guidance being more specific. These can all be applied synergetically. All the guidance materials provide informative references; some may be more applicable or detailed than others, but any or all of them may all have innovative approaches that are relevant.

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

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 approaches; while in other instances the case studies may be considered illustrative of how a number of countries have addressed the particular issue. The Manual often, but not always, distinguishes whether a particular MEA is innovative or illustrative. In all cases, the reader is encouraged to focus on how a particular approach may assist in promoting compliance and enforcement (regardless of whether an approach 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 implementation of MEAs and related national laws (see Annex II). The Guidelines have emerged from the need to increase the effectiveness of MEAs for delivering on environmental objectives. 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 countries were invited. The working group, in which 78 countries participated, approved the Guidelines and recommended their 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 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. The need for laws and institutions is underlined, 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. Simultaneously, the independent legal status of each MEA is recognized in the Guidelines. Accordingly, the most appropriate implementation mechanisms and procedures will depend on the particular characteristics of the particular MEA in question. The Guidelines have been developed to remedy shortcomings in compliance and evasion of laws that are common in many situations, even though MEAs and enabling national legislation have expanded. The effort now is to engage countries and stakeholders through a menu of options for strengthening compliance with MEAs and enforcement of national laws.

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.

Overall, the Guidelines seek solutions for addressing shortcomings in compliance and enforcement, and addressing 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 problems with detection;
- There is a dearth of resources and technical capability;
- Information and economic intelligence 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.

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

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, with "implementation" covering all relevant laws, regulations, policies, and other measures and initiatives that contracting Parties adopt or undertake to meet their obligations under an MEA.

The guidance in Chapter I touches upon the preparatory work required for negotiations and effective participation therein, 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 emphasized.

Chapter II of the Guidelines deals with 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 agencies to ensure that organizations or persons, which are potentially failing to comply with environmental laws or regulations implementing MEAs, 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 emphasize the need for consistency in laws and regulations, as well as cooperation in judicial proceedings.

The subjects handled within Chapter II include national laws and regulations, institutional frameworks, national coordination, training to enhance enforcement capabilities, and public environmental awareness. The strengthening of the institutional framework includes 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 countries 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 MEA 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 compliance committee with appropriate expertise; and (e) inclusion of non-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 country concerned and which can build upon similar activities already undertaken by national institutions or with support from multilateral or bilateral organizations; 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 countries, 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 organizations, 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 countries 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 section on international coordination and cooperation into the two sections on compliance and enforcement; this new format more closely follows the structure of the Guidelines. The Manual was also revised to incorporate many of the examples highlighted in 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 countries participated, in addition to a dozen resource persons from the region, MEA secretariats, and international organizations. 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 and Montenegro. Approximately 35 government and non-government representatives from 6 countries

participated, in addition to resource persons from the region, MEA secretariats, and international organizations. 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 countries 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 organizational aspects of the Manual.

The fifth workshop, for Eastern Europe, Caucasus, and Central Asia (EECCA), was held 22-25 March 2004 in Kyiv, Ukraine. 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 include:

(i) Annual Meeting of North American Working Group on Environmental Enforcement and Compliance Cooperation (CEC) held in Montreal, Canada, 29 September to 2 October 2003; and

(ii) Inter-linkages Regional Meeting on Integrated Capacity Development in the Pacific on Multilateral Environmental Agreements held in Nadi, Fiji, 15-17 March 2004.

Following the five regional workshops, UNEP conducted a significant review and edit of this 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. It also includes more case studies from the MEA Secretariats and other relevant institutions. Accordingly, this version of the Manual includes numerous new case studies from a range of countries, institutions, and contexts around the world. This version also includes expanded explanatory text that incorporates other comments received from the workshops, as well as from Secretariats, MEA experts, and other sources.

This Manual is not in its final form. There are three more regional workshops that UNEP will hold, which will generate more case studies. The remaining regional workshops are for:

- French-speaking Africa, to be held in March 2005;
- Spanish- and Portuguese-speaking Latin America in March 2005; and
- Arabic-speaking West Asia in April 2005.

As of the time that this version of the Manual was sent to press, UNEP continues to receive case studies and substantive suggestions on the Manual. These suggestions and additional research will be incorporated in the final version of the Manual.

Finalizing the Manual

Following the final three UNEP regional workshops, as well as soliciting feedback from other venues, the Manual will be finalized (taking into account the case studies and comments from the workshops). UNEP then will translate into the six official languages of the United Nations and widely disseminate the Manual. The Manual is expected to be finalized in mid-2005, with the translated versions available in the same calendar year.

SECTION I

COMPLIANCE GUIDELINES
EXPLANATORY NOTES AND ILLUSTRATIONS

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 section 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 section, the manual seeks to limit any potential redundancies by including the full discussion of most of these tools in the next section. Nevertheless, people who are interested in compliance issues (including negotiators) should at least be familiar with the range of national measures that a country may utilize in order to comply with the commitments of an MEA.

This section 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 recognizes 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 section 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 emphasizing 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 protect endangered and threatened species, but also extends some protections to legitimate trade and scientific research; the Basel Convention seeks to protect human health and the environment from illegal transport 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 country to country. These benefits tend to be both short- and long-term.
- *Improving Governance:* In addition to providing substantive norms of environmental protection, many MEAs improve the governance of natural resource management, 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 countries 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 countries 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 country's credibility and erode the willingness of countries to take action on other, unrelated matters such as trade, development, security, or social issues.
- *Solidarity*: Countries may wish to become a party to an MEA to support other countries 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 countries (for example in the same region), but may be a lower domestic priority.
- *Financial Assistance*: often, a country 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 country is not complying with an MEA, this could jeopardize 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 indicates that in many instances it is economically preferable to develop within the context of environmental regulation. Otherwise, countries frequently have had to make large expenditures to redress environmental and public health consequences of environmental neglect. Thus, while the priority of many countries may be on development, participation in MEAs can enhance the long-term sustainability of development initiatives.
- *Trade*: In certain instances, it is necessary to be a Party to an MEA (and to comply with and enforce that MEA) in order to be able to engage in trade and to avoid trade sanctions. The Montreal Protocol and CITES are two such examples.
- *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 country 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 country to follow in developing measures to address the problem. Such a common framework could help to ameliorate concerns of competitive disadvantage, and thereby facilitate legislative development.

Countries 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."

For more information, contact envconf@uzsci.net.

MEA Ratification in Bhutan

When considering whether to ratify or acceded 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 country 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.

For more information, contact Mr. Karma Tshering at ktshering@nec.gov.bt.

In addition to these general frameworks for analyzing MEAs, countries 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 countries:

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.

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.

For more information, contact Selby Remie (chm@seychelles.net) or Didier Dogley (didier21@hotmail.com).

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 country 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 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 country 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 Agency for Environment for Eastern Europe (DANCEE, http://www.dancee.dk).

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 June 2004, the Republic of Croatia has not yet ratified the Aarhus Convention.

For more information, contact Ms. Nataša Kacic-Bartulovic at natasa.kacic-bartulovic@mzopu.hr.

At this point, it bears reiteration that when considering whether to join 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 countries (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 country 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.

Note: Guideline 40 sets forth methodological limitations of cost-benefit analysis.

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, countries 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 country, it is indispensable for each country 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 countries seeking to advance their positions during negotiations.
- The negotiation stage also presents opportunities for countries 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 Section addresses these measures, as well as a more in-depth treatment in the Enforcement Section.

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 organized 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 country 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 organization). 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 countries, in which case they are usually termed **"bilateral."** However, most MEAs are between three or more countries, 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 countries 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 examples of such MEAs. Appendix I of CITES includes a list of species endangered with extinction by international trade; Appendix II includes those species which are not endangered but could become so; and Appendix III includes species that countries have identified as requiring the cooperation of other countries to control their exploitation. For CMS, Appendix I includes those migratory species that are endangered with extinction (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 organizations, 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 Countries Commit to an MEA?

Once the final text of the agreement is established, it will typically be "adopted" and "signed" by 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 duly empowered representatives 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 nation to the terms of the agreement, it does declare an intention to become a Party to the agreement and (under the 1969 Vienna Convention on the Law of Treaties) signature does indicate 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 organizations, 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 country'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 nations 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 with any

particular State becomes Party to an international agreement depends on the State, and is often set forth in the State's Constitution.

When a nation 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 country 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 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 MEA, 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 a specified time (e.g., 30, 60, or 90 days) after a specified number of States (usually 20 to 30% 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 SBBTTA) to assist in the administration and implementation of the MEA between the COPs or MOPs.

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 in time, an 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).]

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 it can be shown that the States 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 box on "State Succession and the Nyerere Doctrine," new States (e.g., those emerging from colonialism) may elect not to recognize 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 country 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 box on "Negotiating Resources" following Guideline 11).

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 country) 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 countries 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.

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 countries will be better prepared to comply with its requirements when it is adopted. These activities include the exchange of information among countries, coordination at the national level among the different ministries and agencies that will be involved in compliance, and workshops on compliance.

Some countries, 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 stary 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 countries 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 country 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 country 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?
    - 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? (Continued on the next page)

Checklist for Preparing for Negotiations (cont.)

At the national level (cont.):

- What are the likely issues in the negotiations?
- What are the top one or two issues of highest priority for the country?
- What is the preferred outcome for these issues?
- What are acceptable alternative outcomes?
- What procedure will the country 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 countries, 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 countries 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 countries 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.

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. In practice, though, there is often a greater need for such measures when a new MEA is being considered and countries may be unfamiliar with everything but the very basic issues.

Certain global MEAs – including the CBD, UNFCCC, and UNCCD – convene regional meetings of countries before their respective COPs. In advance of UNFCCC COPs, countries usually meet in the country 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 countries to develop joint positions. For instance in the Caribbean, the CARICOM Secretariat has developed and coordinated ad hoc regional task forces to assist countries 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 East Caribbean States (OECS) is attempting to develop a process for the OECS countries which involves assisting them with the negotiation process for major conventions. In Africa, UNEP often provides a forum through with African delegates can coordinate in advance of negotiations. In this process, African delegates divide themselves according the thematic areas so that the relatively small delegations are able to track all the issues (even if it through the delegations of other, similarly situated countries).

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.

EC Coordination of Member States in Preparing for CITES Negotiations

In the European Community (EC), participation in MEA negotiations – as well as compliance and enforcement matters more generally – is complex due to the fact that EC nations generally negotiate as a block, but often are parties to MEAs to which the EC is not a party. For example, the EC 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." The EC Regulations are directly applicable in all Member States, and the Regulations 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.

With regard to CITES, the EC 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 EC 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 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 country that holds the EC presidency.

Summit of the Americas

A Multistakeholder Information Exchange Session was held before the Summit of the Americas on March 28, 2001. The Summit of the Americas process is an institutionalized set of meetings at the highest level of government decision-making in the Western Hemisphere. The purpose of the Summits is to discuss common issues and seek solutions to problems shared by all the countries in the Americas, whether they are economic, social, or political in nature.

Organizations representing a broad range of interests including human rights, environmental, business, academic, labour, and international development were invited to the Session. The objective of the Session was to engage in a balanced and informed dialogue about issues of importance to the government and citizens concerning the Summit. The Session was also an opportunity to provide information to committed stakeholders in the context of an ongoing review of Summit-related meetings.

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 countries), 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 country 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 institutionalized 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 authorized 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 being 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 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 being 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 Republic of Armenia, where the final decision and act on ratification is reached.

For more information, contact Mrs. Margarita Korkhmazyan (korkhmag@yahoo.com) or Mr. Artak Apitonian (a.apitonian@mfa.am).

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;

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 boxes 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 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 or contact mj.mace@field.org.uk.

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 organizations and banks, and research organizations. 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.

Earlier in 2003, FIELD co-hosted two regional workshops to strengthen the capacity of Pacific Island Countries to negotiate and implement the UNFCCC and Convention on Biological Diversity, with regional partners South 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 Countries. For more information, see http://www.field.org.uk/strength_capacity.php and http://www.field.org.uk/climatenrg_current.php.

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 countries 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 countries in 26 programmes.

These basic and advanced capacity building programs 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 countries 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 country'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 country present conflicting or contradictory positions in different MEAs. Different countries 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 countries, different institutions assume the lead responsibility and try to coordinate with their sister institutions. Some countries, 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 countries, the use of a single inter-departmental committee addressing a number of MEAs was effective and saved resources, but other countries have had better luck with less centralized 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 country tried a similar framework it did not work well. What was the difference? The President in the first country was much more sympathetic to environmental issues.

Increasingly, countries are involving NGOs and other experts in the negotiation and implementation of MEAs. For example, many countries 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 countries 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 Section I (for Croatia, Seychelles, and Sri Lanka).

A number of countries 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.

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 country 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 country;
- 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: biodivproj@hotmail.com.

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 country 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 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 utilized 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 CRC 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 country 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 countries with the same interests, particularly in Latin America. Close contacts were established with other Latin American countries 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 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 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.

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 truly isolated from other issues, gaps and overlaps have emerged with the potential for both synergy and conflict. The resulting strain on international and national capacities could be eased by better coordination. In addition to promoting the efficient use of resources, coordination of MEAs can ensure that international environmental instruments support one another.

Fragmentation at the international level (among the MEAs) often translates to fragmentation at the national level (as different authorities and institutions assume responsibility for implementing different MEAs). Similarly, problems at the national level (including fragmentation) can cause fragmentation at the international level, as the process of international consensus building often builds upon national approaches and institutions. Thus, fragmentation at the national level can translate into fragmentation at the international level.

Thus, there are three key reasons for promoting synergies and inter-linkages in MEA development and implementation:

- the explosion of the number of environmental issues that countries must face and the complexity of 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 underutilized.

The UN has recognized this, and through various Resolutions the UN 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, the UN and its bodies are undertaking a number of innovative approaches to promote synergies. For example, the National Capacity Self-Assessment (NCSA) process explicitly encourages countries to consider synergies among MEAs, particularly the UNFCCC, CBD, and UNCCD.

There are a number of practical ways to promote synergies in a variety of contexts, especially at the national level but also at the regional and global levels. These include:

- 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), and/or the Convention on the International Trade in Endangered Species of Fauna and Flora (CITES). Similarly, legislation could cluster the hazardous substances MEAs (Basel, Rotterdam, and Stockholm). Regional agreements – such as the Waigani Convention (in the Pacific), the Bamako Convention (in Africa), and the Lusaka Agreement (in Southern and East Africa) – can also be included in these clusters. Countries such Antigua & Barbuda, the Cook Islands, and South Africa 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.
- 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 box on "Consultants to Facilitate Legislative Development: Ugandan Forest Sector Legislation" following Guideline

40.] This could also be done for procedural aspects, for example developing a national law on environmental liability, compensation, and valuation that implements the liability elements of multiple MEAs.

- Implementing MEAs synergistically by building on **operational synergies**. For example, CITES, the Basel Convention, the Montreal Protocol, the Stockhom 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 endangered species, hazardous waste, and ozone depleting substances, respectively. The Green Customs Initiative seeks to build capacity of customs officers through integrated training on these five MEAs [see box following Guideline 41(b)].
- 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 South Pacific Regional Environment Programme (SPREP) hosts the Waigani Convention Secretariat and the Basel-Waigani Centre; and the Centre also is seeking to become the designated regional centre for the Basel, Rotterdam, and Stockholm Conventions. [See box on SPREP following Guideline 34(c).]
- At the national level, countries can develop ***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).
- Develop **common reporting formats** for the national reports of related MEAs. Common formats, for example for biodiversity MEAs, could take advantage of synergies and reduce the burden on all countries (but particularly developing countries) to prepare the required national reports. For example, UNEP and UNEP-WCMC have been undertaking a project to harmonize reporting in four pilot countries and have developed recommendations on the basis of the outcomes of these projects. [See box below.]
- MEAs can be clustered for purposes of **raising public awareness**.

Note: These examples of synergies may be more effective in certain contexts (countries, MEAs, etc.) than in others. As with 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 realized, particularly at the international level, and will occur incrementally. For example, co-location of MEA Secretariats remains a contentious issue and it is likely to take time before related Secretariats are co-located, let alone combined. In the meantime, though, boxes below describe efforts underway to promote synergies in reporting among MEAs as well as other synergies.

Clustering of MEAs

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.

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 many 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).

As alluded to above, a range of activities can capitalize on the synergies within a thematic cluster of MEAs. At the international level, these can include measures to:

- harmonize definitions of common terms,
- harmonize reporting formats and schedules,
- develop common indicators to assess progress in implementation,
- harmonize approaches for engaging civil society in the development and implementation of MEAs,
- develop a single financing mechanism for activities within a cluster,
- coordinate policy-making through joint COPs and/or through involvement of other MEA Secretariats in the COPs of related MEAs,
- coordinate the subsidiary and technical bodies (and including working groups) of related MEAs, and
- identify cross-cutting themes to improve the implementation of MEAs.

At the national level (and to some extent at the regional and international levels), activities can include:

- 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.

In some instances, States have been able to cluster MEAs through guidelines. For example, a generalized 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.

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 are more appropriate than others when dealing with specific issues.

UNEP/WCMC Project on Harmonization of Information Management and Reporting for Biodiversity MEAs

UNEP and UNEP-WCMC have undertaken a pilot project on harmonization of information management and reporting pursuant to biodiversity-related MEAs. This project was conducted in four countries: Ghana, Indonesia, Panama, and the Seychelles. It addressed five agreements: CBD, CITES, CMS, the Ramsar Convention, and the Convention Concerning the Protection of World Cultural and Natural Heritage. [COPs of the first four MEAs have explicitly endorsed the move toward increased harmonization of reporting.]

Each country tested different approaches to harmonization. Ghana assessed the possibility of linking the national reporting requirements to the State of the Environment (SoE) reports that the country 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 harmonized reporting, the pilot projects emphasized 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 countries.

A workshop held in September 2004 in Belgium 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 countries could report on (e.g. inland waters, invasive species, protected areas);
- the capacity of developing countries needs to be strengthened to implement a harmonized approach to information management and reporting in order to reduce the reporting burden; and
- regional organisations could play a crucial role in supporting harmonization on 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 Vijay Samnotra of UNEP (vijay.samnotra@unep.org).

Coordination between CMS and the Ramsar Convention

Recognising that wetlands are frequently critical habitat for migratory species (and particularly migratory birds), the Bureau 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 harmonized data and databases, exchanging information, exploring the possibility of harmonizing 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 and the Millenium 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 countries and international organizations (including COPs, but also funding and implementing organs such as the World Bank) to set baselines for ecosystems. These baselines will assist countries and organizations 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-organization steering committee comprising the seven participating organizations 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/.

Joint Liaison Group for the Rio Conventions

In 2001, the Rio Conventions – including the CBD, UNFCCC, and UNCCD – established a Joint Liaison Group (JLG) to promote coordination among the three MEAs. 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.

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 web site, 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/calendar.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.

For more information, see http://test.unfccc.int/cooperation_and_support/cooperation_with_international_organisations/items/2968.php.

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 countries 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

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 emphasizes 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/jerry/Rio_Links/. For more information, contact Mr. Jerry Velasquez at jerryv@hq.unu.edu.

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.

Additional Resources on Clustering, Synergies, and Inter-Linkages among MEAs

In addition to the analysis and examples provided above, Guideline 34(h) and the accompanying text also provide examples of facilitating synergies and linkages among MEAs.

Interlinkages between the Ozone and Climate Change Conventions – Part I: Inter-Linkages between the Kyoto and Montreal Protocols (2002) <http://www.uneptie.org/ozonaction/library/mmcfiles/3587-e.pdf>

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) <http://www.unep-wcmc.org/conventions/harmonization/reports.htm> (summarizing synergies and interlinkages among a variety of MEAs, UN Agencies, and other institutions).

Two Challenges, One Solution: Case Studies of Technologies that Protect the Ozone Layer and Mitigate Climate Change (2001) <http://www.uneptie.org/ozonaction/library/mmcfiles/3123-e.pdf>.

Synergies and Conflicts in Trade and the Environment

In addition to potential overlaps, synergies, and conflicts among MEAs, negotiators should be alert to possible conflicts and synergies with international agreements in other sectors. Such overlaps and conflicts are particularly likely where a topic cuts across different sectors or uses trade mechanisms (such as trade bans or tariffs) to implement the MEA.

For example, the Convention on Biological Diversity (CBD) addresses issues of access to genetic resources and benefit sharing, but so do the International Treaty on Plant and Genetic Resources (an FAO treaty) and various international agreements relating to intellectual property (including the Agreement on Trade-related Intellectual Property Rights (TRIPS) under the World Trade Organization (WTO), the various UPOV (International Union for the Protection of New Varieties of Plants) agreements, and agreements made within the framework of the World Intellectual Property Organization (WIPO)).

One area of particular conflict between trade and the environment relates to trade-related mechanisms for implementing environmental objectives. These may include bans on particular products, such as ozone-depleting substances (ODSs) and goods made with ODSs (e.g., Montreal Protocol), endangered species and goods made with endangered species (e.g., CITES), and hazardous waste (e.g., Basel Convention). At the national level, environmental tariffs and taxes – such as those described following Guideline 41(g) – have been challenged as being barriers to trade that conflict with commitments under the World Trade Organisation (WTO).

The precise relationship between MEAs and trade agreements such as those pursuant to the WTO remains uncertain and in flux. The WTO and its predecessor the General Agreement on Tariffs and Trade (GATT) have issued a number of rulings relating to national trade measures, but these have addressed only a small portion of the potential conflicts. Moreover, the issue of which would take precedence – an MEA or a WTO Agreement – in case of a conflict remains unresolved. To address this potential conflict, the Ministers at the Fourth WTO Ministerial Conference in Doha, Qatar (in 2001) agreed to commence negotiations relating to the linkages and conflicts between trade and the environment. Discussions are ongoing.

Additional Resources on Trade and the Environment

Trade and the Environment: Theory and Evidence by M. Scott Taylor & Brian R. Copeland (Princeton University Press 2003).

Trade and the Environment: Cases and Materials by Chris Wold (Carolina Academic Press 2004).

Trade and Environment Database: <http://www.american.edu/TED/ted.htm>
WTO Web Page on Trade and Environment: <http://www.wto.org/english/tratop_e/envir_e/envir_e.htm>
Trade and Environment Bibliography (WTO-related): <http://www.ppl.nl/hugo/WTObibliographyenvironbibl.htm>
Web Page for UNEP's Economics and Trade Branch: <http://www.unep.ch/etu/index.htm>
Global Environment & Trade Study Web Page: <http://www.gets.org/>

Synergies and Conflicts with Other Regimes

While the trade-environment nexus is often cited as an example of potential inter-sectoral conflicts in international law, MEAs frequently touch on other regimes. These include:

- 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 41(b), 42, 43(b), 46, and 48 and accompanying text];
- investment (with the International Monetary Fund (IMF) and the failed Multilateral Agreement on Investment (MAI)); and
- human rights.

The synergies and conflicts of these different regimes with MEAs vary from minor to significant, from potential to actual.

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 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 country 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 country's negotiating capacity for a particular MEA is to ensure ***continuity of the country's negotiating delegation***. Countries 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.

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 box following Guideline 10(d), is an example of such a depository.

A second, related issue affecting the effectiveness of a country'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 10.

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

Earth Negotiations Bulletin (ENB)

Since 1992, the *Environmental 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.

Negotiating Resources

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

Environmental Negotiator Handbook, by Alexandre Timoshenko (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.

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

International Environmental Negotiations, by Winfried Lang (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).

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

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

Negotiating Environmental Agreements: How to Avoid Escalating Confrontation, Needless Costs, and Unnecessary Litigation, by Lawrence Susskind et al. (Island Press 1999).

Environmental Diplomacy: Negotiating More Effective Global Environmental Agreements, by Lawrence E. Susskind (Oxford University Press 1994).

The Consensus Building Handbook: A Comprehensive Guide to Reaching Agreement, by Lawrence Susskind et al. (SAGE Publications 1999).

Assess the Geographical Scope of an MEA and Identify Interested Countries

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 countries 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.

Countries 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 countries), 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.

The United Nations Convention to Combat Desertification

The UN Convention to Combat Desertification (CCD) is an example of how focusing the geographic scope can improve an MEA's potential for implementation. Land degradation traverses the world's continents, and over 100 countries, including more than 80 developing countries, experience significant environmental effects associated with land degradation. While the CCD is global in scope, it gives particular priority to Africa, where land degradation and desertification have had the most serious environmental and socio-economic effects.

Article 7 of the Convention calls on Parties to give priority to affected African countries, but there is equally an obligation on Parties not to neglect affected developing Parties in other regions. In this regard, the Convention expressly contains regional implementation annexes for Africa, Asia, Latin America and the Caribbean, and the Northern Mediterranean. The Annex devoted to implementation in Africa, for example, provides a detailed and comprehensive set of regional actions. It highlights particular conditions of the African region and outlines specific commitments and obligations of both developed country Parties and African Parties.

Negotiating Blocs

There are many reasons for countries to agree to negotiate as a group. With more than 190 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.

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 countries. The similarities may be economic (e.g., the G7and 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 of 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 countries (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 countries 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 countries 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 issue. In addition to strengthening the negotiating positions, this process sharpened negotiating skills.
- The Group of Latin American and Caribbean Countries (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). Countries 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).

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 countries, Caucasus countries, Moldova, and Albania (CACMA) compromises 8 member countries and two observer countries, all of whom are non-Annex I Parties with economies in transition.

CACMA was established because several articles from 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.

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 South Pacific [see box on "South Pacific Regional Environment Programme (SPREP)" following Guideline 34(c)];
- the 1994 Lusaka Agreement, implementing CITES in East and Southern Africa [see box following Guideline 43]; and
- the 1991 Bamako Convention, implementing the Basel Convention in Africa (http://sedac.ciesin.org/entri/texts/acrc/bamako.txt.html);
- the numerous regional and subregional agreements developed pursuant to the Convention on Migratory Species (CMS) (http://www.cms.int).

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.

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.

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 country that are supported depends on the availability of funds. Because a majority of the 191 UN countries are developing countries, the funds are often not sufficient to pay for more than one participant per country.

Participant funding covers transport from the participating country 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 country'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.

New approaches may be necessary to improve the continuity and effectiveness of negotiating delegations. For example, some countries 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 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.

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 "[u]pon 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 multilateral environmental agreements. Guidelines 33 and 49(a), below, discuss such resources in further detail.

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 countries as possible to participate in the MEA negotiating process requires bringing innovative and thoughtful approaches to the process. One example of such an approach is the concept of "common but differentiated responsibilities," which recognizes that all countries are equally responsible for addressing environmental matters, but that responsibility can and must be expressed in different ways. This concept finds clear expression in some major MEAs, as well as soft law instruments such as the Rio Declaration, and it seeks to balance the priorities and capacities of developed and developing countries.

"Common but Differentiated Responsibilities" in MEAs

Various instruments of international environmental law have recognized the principle of common but differentiated responsibilities in a broad range of contexts. The 1992 Rio Declaration on the Environment and Development, in Principle 7, stated that "In view of the different contributions to global environmental degradation, States have common but differentiated responsibilities."

One of the earliest MEAs to recognise the principle of common but differentiated responsibilities was the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer. As stated in the preamble, the Parties were "Determined to protect the ozone layer by precautionary measures to control equitably total global emissions of substances that deplete it…." Furthermore, they were mindful of the potential impact of the MEA on developing countries ("…bearing in mind the developmental needs of developing countries") and thus crafted a treaty that provided incentives to encourage developing countries to participate ("Acknowledging that special provision is required to meet the needs of developing countries…"). As a practical, matter, the Montreal Protocol allowed developing nations more time thank developed nations to phase out ozone-depleting substances.

The 1992 UNFCCC explicitly noted the "common but differentiated responsibilities" of nations in addressing climate change. The UNFCCC recognized that all states contribute to climate change and that all states may, to different degrees, be affected by it. In this context, the principle of common but differentiated responsibilities recognizes that as industrialized states developed their economies, they have emitted significant quantities of greenhouse gases and they continue to generate the greatest amount. Developing countries are now attempting to industrialize at a time when overall current emissions need to be cut, and that it is difficult for developing countries to establish industrial infrastructure without exacerbating climate change. While it will increase in the decades to come, the relative contribution from developing countries remains limited. The principle of "common but differentiated responsibilities" proposes that, while all states should act to prevent damage to the atmosphere, developed countries should take the lead. Accordingly, the UNFCCC established two distinct sets of commitments for developed and developing countries.

For more information, see for example *The Principle of Common but Differentiated Responsibilities: Origins and Scope* (2002), available at http://www.cisdl.org/pdf/brief_common.pdf.

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 (protocols, conventions, or agreements) 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 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 box below];
- 1989 Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and the Disposal, its 1995 Ban Amendment, and its 1999 Protocol on Liability and Compensation (among other instruments);
- 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; and
- the 1998 United Nations Economic Commission for Europe 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.

While the the 1979 Convention on the Conservation of Migratory Species of Wild Animals (CMS) is not usually called a framework convention, in many ways it is becoming one through its numerous subsidiary agreements that implement the Convention in particular contexts [see box below].

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. 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 87 Parties to CMS, 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.

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 (ODSs). What are the target ODSs? What sorts of alternatives are available, and are they feasible? What should be the timeframe for phasing out the various ODSs?

In light of these uncertainties, the Montreal Protocol works through amendments and adjustments. An amendment is a change in the Protocol itself, while and 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/.

Additional Resources

Environment and Statecraft: The Strategy of Environmental Treaty-Making, by Scott Barrett (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.

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 state 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 Rio Principle 10 that operationalises public participation in a region, the Aarhus Convention is innovative for the unprecedented level of NGO involvement in its conceptualization , 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 countries from Europe, North America, and Central Asia (comprising most of the UNECE countries), 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–including the Regional Environmental Center for Central and Eastern Europe (REC)–conducted and coordinated extensive research on the state of environmental governance in the UN/ECE countries. 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 NGOs, through the REC, published the *Doors to Democracy*, a series of country-by-country assessments of trends and practices in Western Europe, Central and Eastern Europe, and the Newly Independent States.

NGOs continue to play a high-profile role in lobbying their countries 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.

Countries 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 country could become a Party to the agreement. The earlier and more completely a country 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 country to identify its goals and what it desires the pending MEA to achieve.

Among other factors, a country should assess whether there are any structural, institutional, legal, economic, or other national policy factors that may affect its heir 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 countries 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 country 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 country in the baseline year had had an exceptionally large import of electricity from neighbouring countries (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 country, 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 law-making 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 law-making, 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 country is commenced at an early stage and is sufficiently comprehensive.

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 is vital to ensuring its implementation. Such provisions can involve a variety of measures, including

- ensuring 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 soon as feasible. This latter approach may be followed in instances where the need for compliance measures and mechanisms has been recognized, 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.

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 and COP7 in Marrakesh, 2001, 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 countries in non-compliance (the "Implementation Committee") was subsequently established by the Parties and has operated effectively for over a decade.

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).

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.

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>.

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 how a country 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 organization that works with the MEA Secretariat to promote implementation.

Several MEAs require Parties to develop national implementation plans that detail how they plan 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), the Basel Convention, 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 the Protocol's Multilateral Fund must develop a comprehensive national survey and action plan known as a "Country Programme" (see box, below).

The specific process for developing a NIP and the contents of an NIP are usually set by the particular MEA and the MEA Secretariat, although implementing agencies such as the Global Environment Facility (GEF) that provide funding to nations to develop NIPs may also develop guidelines covering the preparation of a NIP. 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. Below, a box describes Sudan's experience in developing a NAP.

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

In addition to national implementation plans 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 countries. As described in boxes following Guideline 41(n), countries 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.

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 submission of NIPs. Through COPs, MEA Secretariats and Parties can – and sometimes do – establish a core group of experts to provide advice and assistance to

countries in developing NIPs. The Global Environment Facility and its implementing agencies (especially UNEP, UNDP, and the World Bank) provide funding to many countries 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 summarized in the boxes 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 national implementation plans. 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 10(e) and 34(h) provide additional discussion 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 country. 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, a CP is a comprehensive national strategy and action plan prepared by a developing country (Article 5 country) to comply with the Protocol. This document establishes a baseline survey on the consumption and production of the controlled ozone depleting substances (ODSs); identifies the nature and funding requirements for investment and non-investment projects under the Protocol's Multilateral Fund; and identifies the required policies, laws, and strategies required to control and eliminate ODSs according to the country's compliance commitments.

In many countries, particularly countries that consume low volumes of ODSs, the CPs are combined with Refrigerant Management Plans (RMPs) since those countries typically use almost all their ODSs 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 ODSs 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 programs
- 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 *Handbook for the International Treaties for the Protection of the Ozone Layer* (2003), or contact ozoneinfo@unep.org or 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 country, and Sudan was one of the first countries 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 country, 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 country: 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 CCD.

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 countries.

For more information, contact secretariat@biodiv.org. See also box on "A Participatory Process for Developing Trinidad & Tobago's NBSAP" following Guideline 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 organizations;
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 country prepares its national profile, it assesses its infrastructure capacity and institutions to manage POPs, including regulatory controls; needs; and options for strengthening them. The country 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 in 12 countries aimed at developing and implementing NIPs. In some instances, these pilot projects are facilitating the development of the necessary implementing measures to enable countries to ratify the Stockholm Convention. In addition, UNEP is supporting a further 42 countries 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 countries 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 country receiving assistance is committed to preparing the NBF and to subsequently implementing the NBF, GEF requires that the country have not only signed, but also ratified, the Cartagena Protocol. The country 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 countries are in the process of elaborating their national NBF, and 12 are implementing their NBF (with GEF funds).

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

National Adaptation Programs of Action (NAPAs) under the Climate Change Convention

In 2001, the 7th COP of the UNFCCC recognized 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 country 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 country 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 country's situation.

For more information, see http://www.gefweb.org/NAPA_guidelines_revised__April_2002_.pdf.

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 countries in tracking their compliance under the respective MEAs. These requirements vary in formality and reporting methodologies. As technology has evolved, compliance information systems with computerized databases are increasingly used to collect, sort, and process this information. The advantages of using compliance information systems include increased transparency, ease of data analysis and verification, and increased efficiency, organization, and prompt compilation of data.

Where limited resources mean that computerized 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 countries, and allocate resources to improve compliance and enforcement..

Two recent 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 current 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 organization 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 the 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 6 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 – 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 countries in fulfilling their reporting obligations. These guidance materials usually are available on the Secretariats' web sites.

In 2002 and early 2003, the CSD Secretariat analyzed 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 organizations 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 countries, in preparing for the 2004-2005 cycle, to build on and update the existing information in the 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 country 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 6 UN languages)).

Standardized Reporting

To assist countries in reporting as required by the MEA, many Secretariats have established standardized 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 analyzing the data, and assists in trend analysis over time and across countries.

CITES standardized its reporting documents as well as other documentation, so that there are four basic types of documents, plus certificates (e.g., see Annex X of this Manual).

The CBD also has a standardized reporting format. As noted above, this facilitates analytic reviews, and there is a thematic analyzer on the CBD's website (http://www.biodiv.org) that draws upon the standardized 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/documents/mop1/ece.mp.pp.2.add.9.e.pdf>.

Funding for Reporting Capacity: Montreal Protocol, the CBD, and the UNFCCC

The most recent MEAs explicitly recognize 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), below]; and
- direct assistance to NOUs from the UNEP Compliance Assistance Programme and from Implementing Agencies through Institutional Strengthening projects.

For more information, contact ozoneinfo@unep.org or 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 country.

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 addresses legal and administrative measures, information on fees for permits, enforcement issues, sanctions provided for offences, and court cases.

Slovenia 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.

An ongoing initiative is seeking to harmonise reporting for the nature conservation agreements – including the CBD, CITES, CMS, Ramsar Convention, and others – under the aegis of the CBD. For more information contact the CBD Secretariat at secretariat@biodiv.org. See also the box on the "UNEP/WCMC Project on Harmonization of Information Management and Reporting for Biodiversity" MEAs following Guideline 10(e).

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.

A Survey of Monitoring and Reporting under Global MEAs

Reporting Requirements under MARPOL

MARPOL (International Convention on the Prevention of Pollution from Ships) is one of the treaties administered by the International Maritime Organization (IMO) to control marine oil pollution from ships. Parties are obligated to report on their enforcement efforts against ships that violate treaty requirements. However, the IMO's analysis of reports over the years has often been cursory and sporadic, with a correspondingly poor rate of reporting by Parties.

By contrast, 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% of the ships that enter their ports and then provide the data on a daily basis. The inspection data is then sent to a centralized 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.

Ship registration systems are another approach to verification used by MARPOL. Ships can only be registered if 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.

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.

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

A common approach in MEAs is to use trade data as a substitute for environmental data. For example, CITES works by making use of the fact that many endangered species are killed primarily for sale outside the countries in which they are found, and that countries monitor trade. The Convention was drafted to control trade in such species (or parts of them) to eliminate the primary motivation for killing them in the first place. The CITES Secretariat organizes training seminars for customs officials and other relevant personnel in monitoring, verification, enforcement, and other aspects of CITES implementation.

Moreover, specialized databases assist governments in monitoring and verifying trade in CITES-listed species. For example, the Interpol and World Customs Organization databases facilitate monitoring and verification for CITES, Basel Convention, Montreal Protocol, and Lusaka Agreement, all of which seek to control illegal trade in banned 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/notifs/2002/022A.pdf). If a Party so requests, UNEP-WCMC will compile an initial annual report for the country based on copies of permits that are on file.

There are also stronger measures to promote compliance with national reporting requirements. Decision 11.89 directs the Standing Committtee to determine which Parties have failed, without having provided adequate justification, to submit annual reports for three consecutive years. This has led to more reporting. Finally, there is a working group on reporting.

The Secretariat maintains an on-line table noting annual report submissions (www.cites.org/common/resources/annual_reports.pdf), but the reports themselves are not available on the CITES website. Nevertheless, CITES trade data is publicly available, and information can be obtained from UNEP-WCMC. For more information on CITES reporting, contact cites@unep.org.

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

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 country'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 box on "Funding for Reporting Capacity," qualified countries can obtain financial assistance from the Global Environment Facility 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.

Monitoring and Reporting under the Cartagena Protocol on Biosafety

Article 33 of the Cartagena Protocol establishes an obligation for each Party to monitor the implementation of its obligations under the Protocol and to report on measures that it has taken to implement the Protocol at intervals to be determined by the Conference of the Parties to the Convention serving as the meeting of the Parties to the Protocol (COP-MOP). At COP-MOP1, in 2004, the Parties to the Protocol approved a format for national reports on implementation of the Cartagena Protocol on Biosafety and agreed on the frequency and timing of such reports. Reports are to be submitted 12 months prior to the meeting of the COP-MOP at which they will be considered. Reporting generally will be done every four years, but in the initial four-year period an interim report is to be submitted two years after the entry into force of the Protocol. 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 in from 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.

Additional Resources on Reporting under MEAs

In addition to the studies in the explanatory text above and the discussions of synergies in MEA reporting provided following Guideline 10(e), resources on reporting include:

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

The web sites for the respective MEAs and MEA Secretariats (see Annex VII).

Non-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 penalization. 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 publicizing 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 non-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 establishing reviewing a potential case of noncompliance, compliance mechanisms typically consider the totality of circumstances: the country, 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.

Non-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 summarize 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 country 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 in 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 (ODSs).

The Secretariat and the Implementation Committee decided to respond with a "plan and review" approach, rather than sanctions, which are provided for under the 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 Global Environment Facility 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 non-compliance mechanism. However, after the Protocol and the Implementation Committee had been functioning for a number of years, the Committee went through a formal review and was revised.

At the Ninth Meeting of the Parties in 1997, it was considered that a regular review of the non-compliance procedures 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 procedure 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 Meg.Seki@unep.org or Michael.Graber@unep.org.

Non-Compliance Mechanisms in Various MEAs (cont.)

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).

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 who 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 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. 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.

Non-Compliance Mechanisms in Various MEAs (cont.)

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 box on "Development of a Compliance Mechanism for the Montreal Protocol" following Guideline 16.

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

CITES regulates international trade in endangered wildlife, plants, and products made from them by requiring Parties to maintain and enforce a detailed permitting system for imports and exports. CITES relies upon the monitoring and verification functions of two nominally independent organizations, the Wildlife Trade Monitoring Unit (WTMU) of Interpol and the Trade Records Analysis of Fauna and Flora in Commerce (TRAFFIC), as well as upon NGOs with expertise in wildlife conservation. Both WTMU and TRAFFIC monitor trade in flora and fauna and have extensive networks of NGOs working with them at the national level. They manage databases of trade records that allow the import and export records of CITES Parties to be cross-matched. When records do not match, they report the anomaly to the CITES Secretariat.

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 *di 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*:

- 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 territory;
- 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/compcommitee/index.html or contact sbc@unep.ch.

Non-Compliance Mechanisms in Various MEAs (cont.)

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

In 19993, 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 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.

Non-Compliance Mechanisms in Regional MEAs (UNECE)

In the UNECE region, three MEAs have non-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 nonjudgmental. For the Aarhus and Espoo Conventions, there are opportunities for public participation. The Espoo compliance mechanism is 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 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 8 Committee members elected at the first MOP in 2002, 2 were nominated by NGOs.

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 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.] The Committee is reviewing cases, including five brought by NGOs.

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

Convention on Long-Range Transboundary Air Pollution (LRTAP) and the Oslo Protocol

The first LRTAP Protocol incorporated an existing monitoring program into the Convention, the Co-operative Program for Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe (EMEP). EMEP's main function is to supply State 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 program 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, comprised of representatives of each contracting Party, is charged with reviewing implementation of the Convention.

The Oslo Protocol to the LRTAP established a compliance system that is applicable to all LRTAP protocols. 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 eight Convention Parties, each of whom must be Party to at least one protocol to the Convention.

The Implementation Committee is charged with monitoring the compliance of Parties and administering the Convention's non-compliance response procedure. In its monitoring role, it reviews the compliance of Parties with their reporting requirements. 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 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). Parties submit nominations of suitable technical and legal experts, and voting is based on geographical balance and expertise.

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.

Checklist for Compliance Mechanisms

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 (dealt with by assistance) or willfulness (deal wiith by stricter measures).
- Which actions trigger the non-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 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.
    - 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 box on CBD, below). 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* 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 countries 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, countries 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 countries 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 Environmental Outlook* (by UNEP and numerous collaborating centres) (http://www.unep.org/geo/)
- *Global Biodiversity Outlook* (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)

A number of MEAs have undertaken reviews of their compliance mechanisms. These include the Montreal Protocol [see box on "Non-Compliance Mechanisms in Various MEAs: Montreal Protocol on Substances that Deplete the Ozone Layer" following Guideline 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 of production and use 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. More information concerning the assessment panels is available at http://www.unep.org/ozone and http://www.teap.org.

Review of the Convention on Biological Diversity (CBD)

Over the years, the Conference of the Parties (COP) of the CBD has adopted a variety 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 recognised the need to establish a process for evaluating, reporting, and reviewing the Strategic Plan. Accordingly, Decision VII/30 established the Ad Hoc Open-ended Working Group on Review of Implementation of the Convention 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. This decision also provided the Working Group with a mandate to review the impacts and effectiveness of existing processes under the Convention as part of the overall process of improving the operations of the Convention and implementation of the Strategic Plan, as well as considering means of identifying and overcoming obstacles to effective implementation of the Convention.

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

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 London 1990, Copenhagen 1992, Vienna 1995, Montreal 1997 and Beijing, 1999)) and (2) the Convention on Illegal Trade in Endangered Species (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. For example, the CITES Implementation Committee (described following Guideline 14(d)) is working on developing a Compliance Committee that has more authorities to investigate and sanction Parties for non-compliance.

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 protected species 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.

In a subsequent decision, the COP instructed the CITES Animals Committee to include sturgeon and paddlefish in its Review of Significant Trade. This review determined that several species of sturgeon were unsustainably exploited in a number of areas, primarily through illegal fishing. Other species were being fished at their biological limit and were considered to be vulnerable to decline if management plans and significant reductions in harvesting were not put in place. This review was based largely on information provided by the range States. It showed a clear pattern of declining yields in the Caspian and Black Sea sturgeon populations that required immediate action.

Two new tracking systems – MIKE (Monitoring the Illegal Killing of Elephants) and ETIS (Elephant Trade Information System) – emerged after COP-10 for tracking illegal activities relating to elephants. The meeting agreed to adjust the protection status of the African elephant populations of Botswana, Namibia, and Zimbabwe subject to several conditions – one of these conditions being the establishment the MIKE and ETIS systems to track illegal ivory and the illegal killing of elephants.

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

UNECE Compliance Mechanisms that Were Developed Following Entry into Force

The LRTAP Convention

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. For more information: 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 box 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 ¾ 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 ¾ 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 thus far.

For more information: http://www.unece.org/env/eia/implementation.htm.

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 (ODSs) through binding time-bound targets for action and a step-wise schedule to phase out ODSs. The terms of this Protocol and the decisions of MOP provided measures for realizing 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 accelerated those for developed countries, as well as a requirement for all Parties to establish import/export licensing systems for ODSs.

(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.

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 countries 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 countries 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.

For more information, see http://unfccc.int/resource/docs/cop7/l21.pdf or contact secretariat@unfccc.int.

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 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 resolution 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.

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 utilizing informal, non-confrontational approaches to address disagreements and disputes. Ideally, dispute resolution 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 resolution 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 disputed between States. These bodies include, for example, the Aarhus Convention Compliance Committee (complaints), the World Trade Organization (*amicus* briefs), the Inter-American Court for the Protection and Promotion of Human Rights (complaints in environmental cases), 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 case relating to the application or interpretation of UNCLOS. Its jurisdiction also extends to cases arising out of other agreements that have specifically conferred jurisdiction on the Tribunal to resolve disputes. 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 organize 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 countries.

Upon request, the Court may give Consultative Opinions relating to disputes and other issues of environmental law. Consultative Opinions may be:

- *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 recognize 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 recognized by the contesting states;

b. international custom, as evidence of a general practice accepted as law;

c. the general principles of law recognized 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.

Recognizing the rapid growth of international environmental law and the growing number of international cases that touched on environmental matters, the ICJ established a specialized *Chamber for Environmental Matters* in July 1993. The Chamber consists of a panel of seven ICJ justices. 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 specialized 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 organizations 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 proposed project for a German construction company 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 box under Guideline 41(i), above), 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 Compliant 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 Andrusevych at aandrus@mail.lviv.ua.

Additional References on International Dispute Resolution

The Settlement of Disputes in International Law: Institutions and Procedures, by John C. Collier & Vaughan Lowe (Oxford University Press 1999).

Transboundary Damage in International Law, by Xue Hanqin (Cambridge University Press 2003) (from a developing country perspective, examining the international rules and compensation procedures relating to international environmental disputes).

Manual on International Courts and Tribunals, by Philippe Sands et al. (Butterworth-Heinemann 1999).

The Competing Jurisdictions of International Courts and Tribunals, by Yuval Shany (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).

Dispute Avoidance and Dispute Settlement in International Environmental Law: Compilation of Documents, edited by Alexandre Timoshenko (UNEP 2001).

Checklist for International Dispute Settlement

In negotiating the inclusion of a dispute 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 country?), 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 referred to existing rules, such as those of the PCA.
- **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/.

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.

Given the central role of national implementation, the Guidelines place particular emphasis on the variety of measures and approaches a country 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 country, 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 section of the Guidelines addressing enforcement. In these instances, the full discussion of the measure is included only in one section, with a cross reference from the other section.

Checklist for Ratification

As noted in the Primer on Negotiating and Ratifying MEAs (at the beginning of Section I of this Manual), every country 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 broadcase, 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 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.

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 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.

In certain circumstances, an MEA secretariat can play an active role in the development of compliance plans. For example, 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.

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.

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. 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 (CO_2) approximating the international price for emission units, but capped at $25 per tonne of CO_2 equivalent. There will be no charge on emissions of non-CO_2 gases during the first commitment period.
- The Government is to retain sink credit assets and liabilities.

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 country'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 countries 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.

Implementing Laws and Regulations

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 country 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, below. Additionally, some of the MEA guidance discussed following Guideline 34 (e) is designed to assist countries in developing implementing legislation.

Law and Institutions in Africa: PADELIA

A major need addressed by the UNEP/UNDP/Dutch Joint Project on Environmental Law and Institutions in Africa is for strengthened institutions for sustainable development and the enforcement of environmental law. The project has been successful in developing draft laws for countries throughout Africa. However, further assistance is needed for the effective implementation and enforcement of these laws. This need led to the development of the PADELIA capacity-building project.

The Partnership for Development of Environmental Law and Institutions in Africa (PADELIA) is a successor to the UNEP/UNDP/Dutch Joint Project. It seeks to enhance the capacity of countries to implement existing laws, develop legal instruments to fill gaps in existing laws, and enhance capacity for sustainable development and the implementation of environmental law.

For more information on PADELIA, see http://www.unep.org/padelia/or contact Elizabeth.Mrema@unep.org.

CITES National Legislation Project

Since 1992, the CITES Secretariat has conducted a national legislation project to analyze national laws and assist countries with developing effective legislation that fully implements CITES. In analyzing a national law, the Secretariat considers whether and how the law: designates the responsible authorities, prohibits illicit trade, penalizes offenders, provides for confiscation, and other elements that are essential to implementing CITES. 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 country's legislation does not meet all of the requirements to implement CITES, the Secretariat can work with the country 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 country with inadequate legislation could have trade suspended.

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 *Guidelines for Legislation to Implement CITES* (1993), and convenes regional and national workshops on drafting implementing legislation. The Secretariat also sends staff or consultants to countries to assist the countries in developing legislation. And, the Secretariat also has various bilaterial and multilateral legislative projects.

For more information, contact Ms. Marceil Yeater at marceil.yeater@unep.ch.

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.

Legislation 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 countries)
- *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.

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:

- 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 organizations in drafting the legislation.
- Consider whether the implementing legislation should implement an MEA by reference and/or by re-enactment, with appropriate modifications.
- 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.]
- Include provisions in the implementing legislation establishing the necessary institutional, administrative, policy-making, inspection, and enforcement frameworks.
  - These frameworks include effective penalties and incentives.
- Address how to resolve potential conflicts between domestic legislation and the MEA. Many countries provide that the MEA prevails in all cases, except for conflicts with the Constitution. Some countries 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).

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

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.

National implementation plans 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 countries (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 country's PRSP. Similarly, the Government of Belgium is supporting a four-year programme (2004-2007) by which UNEP will enhance the capacity of four countries – 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 – will seek to implement MEAs while also promoting poverty reduction.

Many MEAs emphasize the important role of a transparent, inclusive, and participatory process for developing the national implementation plans. 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 national implementation plan. 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 country's approach to implementing the MEA. For both the Stockholm and Rotterdam Conventions, consultants are preparing national implementation plans. Under a National Capacity Needs Self Assessment (NSCA) 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 .

In many instances, a country may be called upon to develop a national implementation plan when the necessary data is limited or nonexistent. In such cases, it is wise to adopt an approach of "Adaptive Environmental Management." Adaptive management recognizes that data is limited – often it is impossible to have enough data – so management measures are *provisional*. Under this approach, a country 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, monitoring, assessing, revising, and so forth is a long-term commitment. Increasingly, though, environmental professionals are recognizing 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.]

The Checklist below highlights considerations in developing an 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.

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 countries in South Eastern Europe developed national strategies for implementing the Aarhus Convention. The six countries were Albania, Bosnia and Herzegovina, Bulgaria, FYR Macedonia, Romania, and 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 at tmagdi@rec.org.

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 extend 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.
- 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 programs 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 Section of the Guidelines and the corresponding Section (II) of this Manual expand upon the details of effective enforcement programmes and frameworks. In particular, Guideline 39 and accompanying discussion focuses on enforcement programmes.

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, below, 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 countries designate their Ministry of Foreign Affairs or similar body as the political focal point.

The ***technical focal point*** often bears the responsibility for implementing the MEA at the national level. Most countries 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 purpose under particular treaties.

In some instances, the political and technical focal points are combined, and *the* national focal point is appointed by the Government to participate in and facilitate the implementation of specific MEA-related activities at national level. For some treaties, the national focal point is in charge of implementing the country'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 country 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 below. Thus, a national focal point can have different meanings and duties depending on the MEA.

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 countries or governments. The STRP also has full member representatives of the Convention's International Organization 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 country 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 country. 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 organize 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.

Broadening the Support for Seychelles's 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 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 COP. 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 (ODSs) as specified in the Country Programme to comply with the Montreal Protocol. [See box in Guideline 14(b), above.] 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 country.

NOUs are linked to each other through a unique capacity-building mechanism under the Multilateral Fund known as "Regional Networking of ODS Officers" [See box in Guideline 34(c), below.]

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>

Ozone Focal Points <http://www.unep.org/ozone/Information_for_the_Parties/3C_focal%20points.asp>

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>

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 country 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 country 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 all 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.

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), (i)-(k) and 44, below, examines in detail aspects of stakeholder and community involvement in implementing environmental laws, policies, programs, and plans.

Women and youth must be involved in the decision making processes that affect the environment and natural resources; particularly because of the role for 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), below, addresses in more detail measures to empower and involve women and youth.

Utilize 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 endangered 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 the International Trade in Endangered Species of Flora and Fauna (CITES) has had tremendous 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 endangered species and derivative products. Commercial over-exploitation of many wildlife species is driven by the demands of, for instance, zoos, circuses, museums, traditional healers and crafts people, the fashion and pet industries, and collectors. Without a reduction in demand from public awareness, CITES compliance and enforcement efforts would have difficulties in diminishing legal trade and eliminating illegal trade of endangered and threatened species. The success in drastically reducing the ivory trade serves as one example of the effectiveness of education and publicity in decreasing the demand for a wildlife product.

Education programs are important in addressing shaping the decisions of individual and institutional consumers. Such programs can help consumers to understand the environmental and social implications of their decisions to buy a particular product, live in a particular place, or utlise certain services. Educational and public awareness programs, which is discussed more in Guideline 44 below, includes education about the effects the particular decisions as well as alternatives. For example, in the context of CITES, this would include information on the impacts of using products from endangered species (such as certain traditional medicines) as well as indicating the availability of specific alternatives that do not threaten the future of endangered species (such as other medicines that are derived from commonplace substances or synthetic medicines). Many organizations and the CITES Secretariat have engaged in publicity and education campaigns.

In addition to affirmative education programs, 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 country to attract investment, access funding for projects, engage in diplomacy, and negotiate with other countries. 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, below).

Following this explanatory text, there are a couple of examples of how MEAs and international institutions have promoted public awareness and use of the media to improve compliance. A checklist is also provided. Guideline 44, below, focuses on public awareness and education at the national and local levels and includes a more extensive treatment of the topic.

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 (ODSs) 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 country to country, 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, 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 compile 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.

For more information, contact ozoneinfo@unep.org or ozonaction@unep.fr.

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.]

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.

This case study was distilled from materials produced under "Environmental Information, Education and Public Awareness, Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine," a project funded by the European Union and implemented by Royal Haskoning and The Regional Environmental Center for Central and Eastern Europe (REC). The views expressed here are the sole responsibility of Royal Haskoning and the REC and can in no way be taken to reflect the views of the European Union. For more information on this project, contact Ms. Veronica Vann at veronica.vann@tiscali.co.uk. 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 from the Aarhus Convention Secretariat at http://www.unece.org/env/pp/.

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 PressCenter" 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 country 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 some English).

In Russia, a non-governmental 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).

Checklist for Promoting Compliance through the Media and Public Awareness

When developing strategies for promoting education and public awareness of MEAs, countries 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 emphasize 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;
- *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.

More aspects of public awareness are discussed in Guideline 44, below.

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.

Expanding 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"). Oftentimes exposing the government, industry and others to the public scrutiny through a legal action is an effective means of deterrence.

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.

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 country 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 organizations 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 organizations, 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.

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 emphasized 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 box 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 countries 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.uneptie.org/ozonaction/library/mmcfiles/3914-e.pdf.

Technology Transfer

The Multilateral Fund has emphasized technology transfer through a variety of projects (see also the case study immediately following this box). "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.uneptie.org/ozonaction/library/mmcfiles/3434-e.pdf.

A similar publication of case studies on technology transfer for ODS phase out in African countries is forthcoming.

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.uneptie.org/ozonaction/library/mmcfiles/4028-e.pdf; and a Spanish translation is available at http://www.uneptie.org/ozonaction/library/mmcfiles/4028-s.pdf.

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 sterilization, 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 6-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)

Technology Transfer to Build Capacity and Implement Climate MEAs in Georgia

At COP4 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 emphasizing 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 seeks to remove the key barriers to the increased utilization of renewable energy for local energy supplies. The project emphasizes the leveraging of financial resources to capitalize 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.

For more information, contact Mr. Nino Gokhelashvili 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). 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, 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, 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. This Convention has 49 parties from a region with 55 countries, but new parties to the Convention still need assistance in implementation. Moreover, assistance is necessary to enable more countries 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 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.

Additional Resources for Capacity Building, Technology Transfer, and Financial Assistance

Financing Sustainable Energy Directory <http://www.fse-directory.net/> (an inventory of lenders and investors providing financing for renewable energy and energy efficiency).

International Cooperation and Coordination in Compliance

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 countries. 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 organizations whose function is to facilitate such cooperation (such as 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.

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 countries 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 organizations 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 countries 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 countries. The main role of AC-IMPEL was to support these countries 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 policy-making 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 country;
- 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 National Strategy on Soils, and a National 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 country'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 gives Parties to an MEA the opportunity to draw on the experience of many countries in efforts to improve their compliance.

UNFCCC and the Kyoto Protocol

A good example of lessons learned 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 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 mobilize 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 organizations may submit relevant factual and technical information on the relevant branch.

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, contact suresh.raj@unep.fr.

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 on-going bilateral agreements bringing environmental management skills and technology from developed nations through development cooperation with the developing countries and countries with economies in transition.

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 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 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 country'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 organization, based in Hungary with offices in 16 countries. [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 countries in various political and economic situations. The Center also disseminates the regional experience to other countries around the whole world.

Among its numerous activities, the REC has participated in the development of MEAs (such as the Aarhus Convention, the PRTR Protocol, and the Protocol on Strategic Environmental Assessment), 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 box following Guideline 49(a)], developing the *Implementation Guide to the Aarhus Convention* [see box following Guideline 34(e)], and assisting countries to develop strategies implementing the Aarhus Convention [see box following Guideline 21].

Another example is a project to assist countries in Eastern Europe, Caucasus, and Central Asia (EECCA) in implement the Aarhus Convention at the national and local levels. Tthe 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 44 (CERN), 49(a) (AIMS), and 49(e).

Global Initiatives to Share Experiences in Environmental Management

International Network for Environmental Compliance and Enforcement (INECE)

Presently, INECE is the only global network exclusively dedicated to fostering international partnership to promote compliance and enforcement of domestic and international environmental laws through networking, capacity building, and enforcement cooperation. It comprises 2500 practitioners from international organizations, governmental agencies, and NGOs. The Dutch and U.S. environmental agencies founded INECE and are the key funders, while UNEP, World Bank, OECD, and the European Commission provide additional support. The INECE Secretariat coordinates activities and undertakes analytical work. In addition to global work, INECE strengthens regional networks in Africa, Asia, Central America, and South America.

Key INECE efforts include the development of a set of Environmental Enforcement Principles, which is accompanied by a training workshop, an Inspectors Manual, and an extensive web site, which contains the full text of over 600 articles published as the conference proceedings for the six INECE international environmental enforcement conferences. The seventh INECE conference is scheduled for late spring 2005 in Morocco. Another key INECE effort is the development of the INECE Environmental Enforcement & Compliance Indicators. The results of a joint INECE-OECD enforcement indicator workshop may be found on the INECE web site. 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 countries. 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.

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 countries. 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/>

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.

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 countries 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. below.

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 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 organization 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 countries and other countries 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 Countries, recently merged with IMPEL. For more information on IMPEL, see: http://europa.eu.int/comm/environment/impel/.

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 organizations 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 programs 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 organizes 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 organizations. 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 countries 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.

South Pacific Regional Environment Programme (SPREP)

The South Pacific Regional Environment Programme (SPREP) is an intergovernmental organisation comprising 25 Members and Territories. It has the responsibility to build capacity within member countries 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, 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 protocols 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). Similarly, the Apia Convention, which promotes the creation of protected areas, is now being amended to provide synergies with other relevant conventions such as CBD, CITES, and Ramsar.

Capacity Building to Implement MEAs

To support SPREP Members, the Secretariat promotes coordination at the national level, provides technical and legal advice to countries (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 countries 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 Countries in MEAs. Workshops help to develop regional positions prior to COPs, particularly on issues of direct relevance 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 Jacques Mougeot at JacquesM@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 Barbados Plan of Action +10. 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 box on the UNU Inter-Linkages Handbook under Guideline 10(e).

For more information on SPREP, visit http://www.sprep.org.ws/ or contact JacquesM@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 box 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 box under 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 where Ozone Officers are free to discuss their difficulties and where everyone has something to learn from others. Network meetings and in-between communication also provided 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 144 developing and 14 developed countries, which have resulted in member countries' 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 country 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 btulsie@planning.gov.lc.

Eastern Europe and Central Asia

The Central and Eastern Europe and Central Asia (CEECA) Regional Network is another network of NOUs that is financially supported by the Multilateral Fund, as well as bilateral donors, with services provided by the UNEP Compliance Assistance Programme. As with the other networks, the CEECA Regional Network provides a regular, interactive forum for officers in National Ozone Units to exchange experiences, develop skills, and share knowledge and ideas with counterparts from both developing and developed countries.

The CEECA Network is comprised of 12 Eastern European countries operating under Article 5 of the Montreal Protocol. In addition, Austria, Czech Republic, Croatia, Hungary, Slovak Republic, and Sweden are involved in the network as observers and/or bilateral donors. The Network is open to participation of any country in the Pan-European region. The Network was officially launched at its first meeting in October 2003 in Macedonia; with the next meeting held in Bosnia & Herzegovina in April/May 2004.

South East Europe

Country-to-country cooperation can help to bring countries into compliance. For example, in South East Europe, Albania was in non-compliance with its obligations under Article 2A of the Protocol because its CFC consumption was higher than its baseline. In 2003, seeking to assist the NOU of Albania to better coordinate approved activities, UNEP organized a one-week attachment of the Albanian National Ozone Officer (NOO) with the NOU in Croatia. During this attachment, Croatian experts were able to build the capacity of the Albanian NOO to coordinate in-country activities such as awareness raising, establishing a licensing system, and training customs officers and refrigeration technicians. As a result of this exchange, Albania has made significant progress in implementing approved activities and expects to return to compliance in the near future.

Many countries have suggested that South-South cooperation is an essential means to assist countries to come into and stay in compliance. To facilitate further cooperation and exchange of experiences among countries in complying with the Protocol, the Multilateral Fund has approved funding for such activities in UNEP's 2004 Business Plan. For more information about how networking has facilitated the exchange of experiences within and among regions, see http://www.uneptie.org/ozonaction/aboutus/networks.asp and http://www.uneptie.org/ozonaction/library/policy/main.html#network.

Other Regional Networks

Asociación Interamericana para la Defense 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 Politicas Conservacionistas para America 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 Centroamericano de Ambiente y Desarrollo (CCAD, or Central American Commission on Environment and Development) [see box following Guideline 46]
<http://www.ccad.ws/> (in Spanish)

Environmental Law Network International (ELNI)
<http://www.oeko.de/elni/> (in English)

Inter-American Bar Association (IABA) (with a Committee on Natural Resources and Environmental Protection)
<http://www.iaba.org/> (in English, French, Portuguese, and Spanish)

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 organizers 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, organizers 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? Wh
- 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?

Effectiveness Review 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 must be evaluated periodically to assess their effectiveness, so to 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.

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 country'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 Covention:

- *Model National Legislation* <http://www.oztoxics.org/waigani/basel/refer_c2.html>
- *Guidance Document on Transboundary Movements of Hazardous Wastes Destined for Recovery Operations* <http://www.oztoxics.org/waigani/basel/refer_c2.html>
- *Guide to the Control System (Instruction Manual)* (1998) <http://www.oztoxics.org/waigani/basel/refer_c2.html>
- *Guidance Document on the Preparation of Technical Guidelines for the Environmentally Sound Management of Wastes Subject to the Basel Convention* <http://www.oztoxics.org/waigani/basel/refer_c2.html>

For CITES:

- *CITES Handbook* (2001)
- *Guidelines for Legislation to Implement CITES* (1993)
- *Identification Manuals* (for *Flora* and for *Fauna*)
- *Checklist of CITES Species* (2003) <http://www.cites.org/common/resources/2003_CITES_CheckList.pdf>
- *CITES Identification Guides* <http://www.cws-scf.ec.gc.ca/enforce/species_e.cfm>

For the Convention on Biological Diversity (CBD):

- *Handbook of the Convention on Biological Diversity*, by the CBD Secretariat (2nd ed. 2003) <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/pdfdocuments/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>

For the Montreal Protocol and the Vienna Convention (the Ozone MEAs):

- *Guidelines for Development of Refrigerant Management Plans (RMPs) in Low-Volume ODS-Consuming Countries (LVCs)* (2000) (in English) <http://www.uneptie.org/ozonaction/library/policy/main.html#network>
- *Training Guidelines for Identification of Needs and Coordination of Activities* (1997) (in English, French, and Spanish) <http://www.uneptie.org/ozonaction/library/policy/main.html#network>

- *Standards and Codes of Practice to Eliminate Dependency on Halons: Handbook of Good Practices in the Halon Sector* (2001) (in English) <http://www.uneptie.org/ozonaction/library/policy/main.html#network>
- *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.uneptie.org/ozonaction/library/policy/main.html#network>
- *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.uneptie.org/ozonaction/library/mmcfiles/3946-e-intro.pdf> (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.uneptie.org/ozonaction/library/training/main.html>
- *Handbook on Data Reporting under the Montreal Protocol* (1999) <http://www.uneptie.org/ozonaction/library/datareporting/main.html>
- *Training Manual for Customs Officers* (2001) <http://www.uneptie.org/ozonaction/library/training/main.html> (describing the ozone lawyer and ODSs; the international response; national strategies for phasing out ODSs; prevention of illegal trade; measures to harmonize names, labeling, and packaging of ODSs; identifying ODSs, 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://www.unep.org/ozone/Handbook2000.shtml> 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.uneptie.org/ozonaction/library/mmcfiles/2832-e.pdf>
- *Manual for Training of Extension Workers and Farmers: Alternatives to Methyl Bromide for Soil Fumigation* (2001) <http://www.uneptie.org/ozonaction/library/mmcfiles/3547-e.pdf>

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/gpglulucf_unedit.html>

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 box, below)
- *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>

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 ten thematic areas of the EMPS [see http://www.pps.gov.sc/enviro/EMPS_2000-2010.pdf or the box 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 key component of the country'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 policy-making, 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 CEE (REC), 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.

Checklist for Developing National Legislation to Implement MEAs

- Set out Convention requirements for national action (legal or others);
- Closely examine each of the requirements;
- Consult relevant secretariat documents and precedents, including model legislation where available;
- Allocate time for each element of the legislation needed at national level;
- Legislative elements:
  - Definitions
  - Objectives
  - Principles
  - Operational provisions
  - Enforcement
  - Liability (where appropriate)

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 countries 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, the Caribbean, and the Northern Mediterranean. 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 countries 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 box on CCAD.

Regional Frameworks for Implementing the Convention on Biological Diversity (CBD)

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, and the South Pacific Regional Environment Programme.

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

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 (ODSs) 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 box in Guideline 24, above]);
- 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 box in Guideline 14(c), above);
- Training of customs officers (see Guidelines 41(b), 43(b), and 49, below);
- Training of refrigeration technicians, through "train-the-trainer" programs on good practices in refrigeration (see Guidelines 42, 43,and 49, below);
- 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).

The regional strategy emphasizes 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 South Pacific Regional Environment Programme (SPREP), and the Governments of Australia and New Zealand.

For more information, contact Ms. Emma Sale Mario (SPREP) at EmmaS@sprep.org or Mr. Thanavat Junchaya (UNEP/ROAP) at junchaya@un.org.

Developing an Environment Strategy for the EECCA Region

Ministers at the Fifth "Environment for Europe" Conference adopted an Environment Strategy for countries of Eastern Europe, Caucasus, and Central Asia (EECCA), with the purpose of improving environmental conditions and implementing WSSD Plan of Implementation in the subregion. The Strategy aims to find solutions to common environmental problems of EECCA countries on the basis of close subregional cooperation, particularly addressing environmental problems at the ecosystem approach.

One of the key objectives and areas for action identified by the strategy is to identify and address transboundary problems and strengthen cooperation within the framework of international conventions. It identifies problems, as well as actions to address them. The problems include weak national institutional capacity; inadequate financial resources; underdeveloped mechanisms of cooperation between national agencies, local authorities and the public; a low priority of transboundary environmental problems in national strategies and action plans; a need to develop the necessary procedures and mechanisms and to introduce them into national action plans; a need for improved inter-governmental monitoring of implementation in connection with specific transboundary problems (river basins, regional seas), and a lack of mechanisms for assessment and compensation of transboundary damages.

The Strategy envisions a series of measures to improve the implementation of international agreements, including:

- Support and promote accession of countries to transboundary environmental conventions and support of development of new ones with involvement of all affected countries.
- Develop and implement recommendations for compliance and establish a responsibility mechanism.
- Regular identification and analysis of transboundary environmental problems.
- Develop sub-regional action programmes to address transboundary environmental problems.
- Establish a task force of international experts to develop a mechanism for assessing and compensating for transboundary damages.
- Develop inter-agency procedures for implementing bilateral agreements and treaties.
- Implement actions to ensure monitoring of implementation of international conventions and uniform systems for exchange of environmental information among sub-regional organisations.
- Develop recommendations for establishing mechanisms of responsibility for compliance with international environmental commitments.

The full text of the Strategy can be found at: http://www.unece.org/env/wgso/kyiv_doc.cat.1.htm.

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 4-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 country, 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. Lucian and Dominican Cabinet of Ministers. The draft plans for the other ten 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.

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 CCCCC is expected to be online soon).

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 countries 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 and should work together to inform and educate non-Parties in this regard. International organizations such as convention secretariats and UNEP can be instructed by their governing bodies to help in such efforts.

In addition to the examples, below, see the boxes on "Approaches for Financial and Technical Assistance…" (following Guideline 33) (particularly the discussion of the Finnish Trust Fund) and "Transboundary EIA Guidelines around the Caspian Sea" (following Guideline 49(b)).

Encouraging Non-Parties to Ratify the Montreal Protocol

While the UNEP/DTIE OzonAction Programme and Ozone Secretariat have different roles and responsibilities (the former assists developing countries 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 groups 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 box 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 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.uneptie.org/ozonaction/library/policy/main.html#finland.

In part due to the above measures, as of January 2004 the only non-Parties to the Montreal Protocol were Equatorial Guinea, Eritrea, Afghanistan, Bhutan, East Timor, and Iraq.

Promoting Implementation of the Aarhus Convention in Uzbekistan (a Non-Party)

Although Uzbekistan has not signed the Aarhus Convention, the country 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 the Organization "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.

Since March 1994, UNEP has regularly convened meetings of representatives of the MEA Secretariats that UNEP administers, 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 (ODSs) 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, and CMS – have been exploring ways to better coordinate. The Secretariats have developed MOUs with one another. Moreover, they tend to participate in one another's COPs and other key meetings.

In addition to the discussions below, Guideline 10(e) and the accompanying text also provides examples of facilitating synergies and linkages between and among MEAs. Also, please see discussion of the National Capacity Self-Assessment (NCSA) process following Guideline 41(n), which facilitates consideration of synergies among MEAs.

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 Covnention 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.

Joint Liaison Group for the UNFCCC, UNCCD, and CBD

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. The Joint Liaison Group was established in order to facilitate 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.

Its terms of reference, as well as joint programme of work, 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.

For more information, contact jo.mulongoy@biodiv.org.

Coordination of UNECE Agreements and their Secretariats

For two consecutive years, the Bureaux 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 included 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.

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.

Coordination between Global and Regional Agreements

As noted following Guideline 11, 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.

SECTION II

ENFORCEMENT GUIDELINES EXPLANATORY NOTES AND ILLUSTRATIONS

Introduction, Purpose, and Scope of the Enforcement Chapter

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.

The enforcement chapter of the Guidelines recognizes 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 emphasize 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, particularly through capacity building, financial assistance, and technology transfer, is essential if state-level enforcement is to be improved, especially in developing countries and countries with economies in transition.

Importance of Environmental Enforcement Programs

Environmental enforcement programs 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 creditability 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, and the likelihood that other government efforts to protect the environment will be taken seriously.

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 program 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 countries 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.

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 arguably is the first serious example of integration of environmental issues, including climate change, in national plans in Georgia.

The EDPRP seeks to ensure that the National Strategy for Sustainable Development (NSSD), which will be 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, as well as other economic and social agreements; it also seeks 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 have to 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 public participation procedures, as well as considering issues of protection and conservation of biodiversity and the sustainable management of terrestrial resources (forest, water, 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 hydro resource management will be worked out to ensure accessibility to clean water especially for the poor. These programmes will regularize 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, the plan of activities to mitigate the effects of global climate change and the rationalization of water resource management will be devised.

For more information, contact Mr. Nino Gokhelashvili at gmep@access.sanet.ge.

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 realize immediate economic benefits if compliance involves recycling valuable materials or increasing the efficiency of its processes. A strong enforcement program may also encourage facilities to comply by preventing pollution and minimizing waste, rather than installing expensive pollution control and monitoring equipment.

Although an effective enforcement programme must be designed to respond swiftly and thoroughly to environmental violations, the most effective ones rarely reach this stage of application because they are sufficient to 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 organizations.

An effective enforcement programme involves several components:

- Creating requirements that are enforceable
- Knowing who is subject to the requirements and setting program priorities
- Monitoring compliance
- Promoting compliance in the regulated community
- Responding to violations
- Clarifying roles and responsibilities
- Evaluating the success of the program and holding program personnel accountable for its success.

These components form a framework within which to consider issues pertinent to any enforcement program, no matter what its stage of development. The response to these issues may differ among countries, among regions or localities within countries, and among different programs over time. Important to the success of all programs, however, is the need to address all elements of the framework. Each element is part of an interconnected whole and thus can influence the success of the whole program. When requirements are well designed, then compliance will achieve the desired environmental results. If the requirements are poorly designed, then achieving compliance and/or the desired results will likely be difficult. (Source: INECE, Principles of Environmental Enforcement).

For many countries enforcement remains a difficult aspect of national environmental legislation. Because a problem at any level in a country's enforcement programme can interfere with enforcement, a lack of capacity or resources in any area (from the drafting of clear laws that impose obligations to the training of enforcement personnel) can hinder enforcement efforts.

The Guidelines note that there are a variety of types of enforcement available, including civil and criminal enforcement. Additionally, social norms and customs can often have a compelling effect on the regulated community (that is, those subject to the laws) by encouraging compliance with the law. Some countries have also started experimenting with a new variant: the use of rewards, instead of penalties, to promote compliance with the law.

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 Uckebani" (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 has yet to be fulfilled. With the first steps of constructing a new country now underway, there is hope that the new Parliament will fulfill the court decision.

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 authorizations) in implementing environmental law. The term "environmental law violation" is defined to mean the contravention of environmental laws implementing MEAs and the term "environmental crime" covers violations of environmental laws that are subject to criminal penalties.

What is an (international) "environmental crime"?

Environmental crime, or the imposing of criminal penalties for environmental violations, is a relatively new concept. Currently, the norms vary from country to country, with some countries relying more on criminal approaches, while other countries rely more on civil or administrative approaches to environmental offences.

Over the past few decades, the international community has come to recognize that some environmental violations so severely threaten the well-being of the planet and its inhabitants that they should carry with them harsh consequences. In these instances, criminal sanctions are encouraged, but generally not mandates.

The G8, Interpol, EU, UNEP, and UN Interregional Crime and Justice Research Institute have recognized 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 Fauna and Flora (CITES);

- Illegal trade in ozone depleting substances (ODSs) in contravention of the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer;

- Dumping and illegal transport of various kinds of hazardous wastes in contravention of the 1989 Basel Convention on the Control of Transboundary Movement of Hazardous Wastes and other wastes and their disposal;

- Illegal, unregulated and unreported (IUU) fishing in contravention of controls imposed by various regional fisheries management organizations (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;
- "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.).

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 countries 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 requiremens 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 hald 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.

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 country 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, statutues, 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."

Responsive Regulation. In contrast with command-and-control approaches, responsive retulation 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. 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 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. 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.

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.

> *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. For example, keeping a wild animal - if the animal were to do harm, the owner/keeper would 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. This is why strict liability can act as an effective deterrent. 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 country and the circumstances.

Economic Tools

Economic or "market-based" approaches use market forces (and economic incentives and disincentives) to achieve desired behavior 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 on the products' environmental performance. This is both an economic and an information-based tool (see below).

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.

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 organizations. 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).

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 countries, particularly in rural areas. Traditional leaders play a significant role in shaping the actions of their communities. As such, Governments can work with these 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 case study below, other examples are provided in the discussion of "Educating Community and Traditional Leaders" following Guideline 44. 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.

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 decentralized 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 decisiomaking 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 dem onstrated his commitment to the environment in his area of jurisdiction.

For more information, contact epaed@epaghana.org or see http://www.epaghana.org.

PRINCIPLES UNDERLYING ENVIRONMENTAL MANAGEMENT TOOLS

In addition to the different tools outlined above, there are different principles that may be invoked in crafting an environmental regime. These principles can inform the selection of the tools and the development of the programme. The principles 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 principles include:

- Pollution prevention
- Polluter-pays
- Precaution
- Transparency and public participation
- Sustainability (for example, in production and consumption)

For more information on these principles, see the various references cited in the box at the end of the Primer on International Environmental Law that appears at the beginning of Section 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.

Additional References on Adaptive Environmental Management

"The Role of Adaptive Environmental Management within Sustainable Development," by W.J. Allen (2001) <http://nrm.massey.ac.nz/changelinks/thesis_ch2.html>.

Adaptive Environmental Assessment and Management, by C.S. Holling (John Wiley & Sons 1978) (a key publication on the topic).

Ecosystem Management: Adaptive, Community-Based Conservation, by Gary K. Meffe et al. (Island Press 2002).

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 countries 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 countries in ***prioritizing MEAs***. 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 country must decide upon which approaches it will rely.

In reviewing the different approaches, a country should consider whether a particular approach is feasible and desirable: What sorts of legal, institutional, or cultural reform is 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?

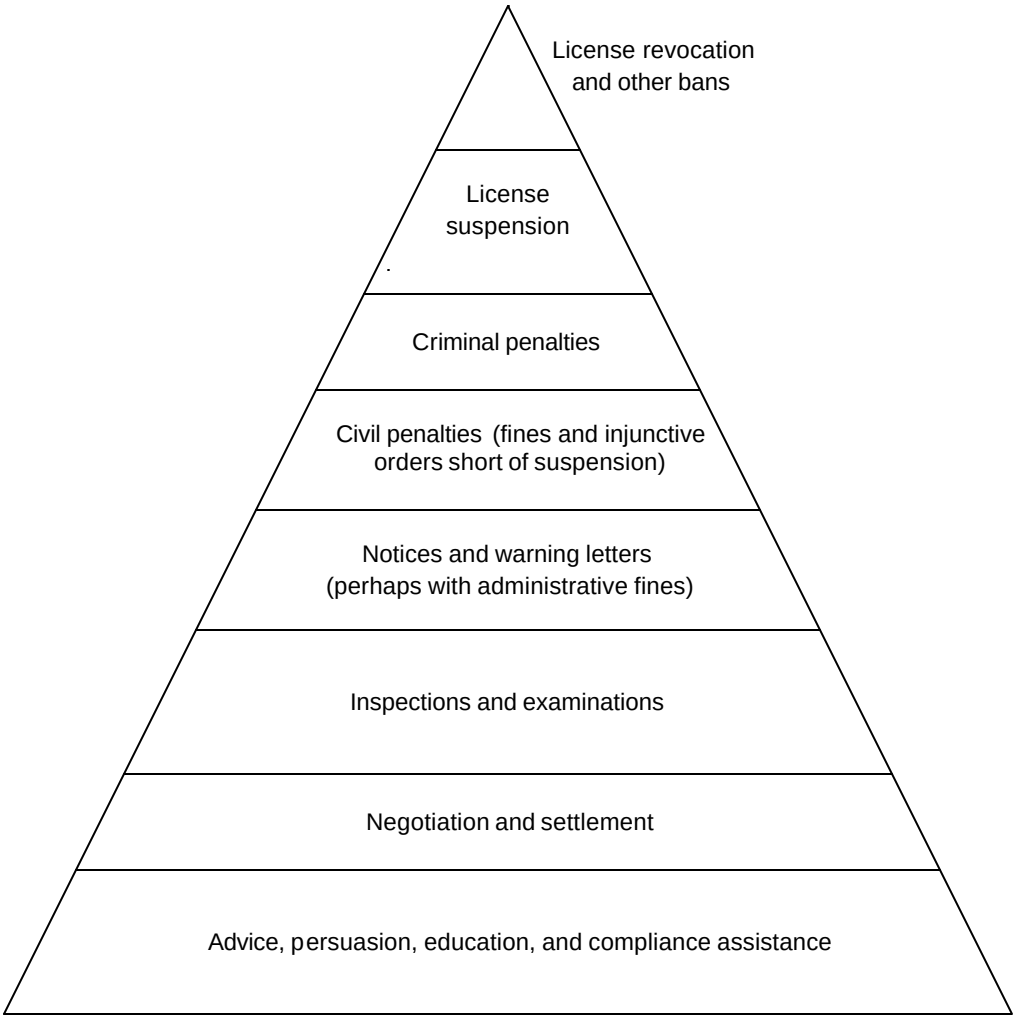
For example, in determining whether certain market-based approaches are appropriate or feasible, a country needs to examine its existing legal, institutional, and economic frameworks. Some approaches may require significant institutional developments or economic reform. Least developed countries, small island developing countries, 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 barriers and to plan accordingly.

In considering the options, a country should 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.

Principles of Environmental Enforcement

In determining which approach or combination of approaches is most appropriate to a particular country 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 countries. It is available in Chinese, English, French, Serbian, and Spanish at http://www.inece.org/enforcementprinciples.html. For more information, contact Emory.Richard@epamail.epa.gov.

In establishing or strengthening their legal and institutional systems for environmental enforcement, countries 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.



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 emphasizes 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).

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.]

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

In establishing the environmental enforcement regime, a country can utilize the enforcement pyramid to tailor enforcement responses to the severity of the offense:

- 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.

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 country's obligations under multilateral environmental agreements is the incorporation of international law into national law. The Guidelines emphasize the importance of clarity, feasibility and thoroughness when it comes to the "enforceability" of national environmental laws implementing MEAs (See Guidelines 40(a)-40(c), below).

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

Incorporated 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, countries often consider the approaches of other countries (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 countries.

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 box 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, other 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.

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. 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 box 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 country. 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 country can develop a single law that implements a related cluster of MEAs. For example, a country could adopt a biodiversity law that implements the CBD, CITES, CMS, the Ramsar Convention, and/or other biodiversity-related MEAs. [See discussion following Guideline 10(e).] 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.

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 effectivenss 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.

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
- consultants (see discussion below on "Assistance in Developing Environmental laws).

To some extent, the process for drafting legislation may be disctated by how an MEA is ratified. For example, in Tajikistan and some other countries, 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 country. 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 legisltative drafting process, it helps to ***know what are some of the legal options***. Countries frequently look to:

- Legislation from other countries. In reviewing the laws of other countries to identify legislative options, the Internet can be a powerful tool for accessing the legal texts. [See Annex VII on "Selected Internet References".] 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, countries should consider these as illustrative. Some things may translate well to their country; 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 country. That said, experiences from other countries and model laws can help to facilitate harmonization of legislation, particularly within a region or sub-region. [For more information on legislative harmonization, see Guideline 46 and accompanying discussion.]

Since the effective implementation and enforcement of environmental laws and MEAs often requires many different actors, many countries 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 countries ***include enforcement personnel on the legal drafting committees***. In St. Vincent, 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 (SPAW). 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 provate sector. [The Attorney General was also there to provide legal advice, indicating the implications of one legal formulation or another.]

In most countries, 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 countries in developing environmental laws. In some of these countries, 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 pariticpation in making environmental laws, regulations, and policies, see Guideline 41(k) and accompanying text.

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 country. 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.

For more information, contact Mr. Adil Ali at hcenr@sudanmail.net.

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 ten iterations of the draft Act, St. Lucia is poised to formally adopt the legislation in late 2004. Even before St. Lucia's draft Act was completed, the CITES Secretariat used it as a model for other countries around the world needing assistance in drafting implementing legislation, since St. Lucia's version deals with many practical issues.

For more, contact Mrs. Sarah George or Mrs. Dawn Pierre-Nathoniel at +758-4684141/36 or deptfish@slumaffe.org.

Cost-Benefit Analysis of Proposed Environmental Laws and Regulations

A growing number of countries 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 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.

[Note: As discussed in the box 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 country to make a decision that has a net economic cost.]

Regulatory Impact Assessment and Cost-Benefit Analysis in Uganda

In Uganda, a Regulatory Impact Assessment (RIA) is required for all policy and regulatory proposals. An 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 an 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
- 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.

For more information, contact Mr. Robert Wabunoha at rwabunoha@nemaug.org.

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.

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 Section 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 recognized. 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 …
- *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. For example, what is the economic value of a country'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 country 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 country to the overall protection of the ozone layer may be incremental and modest. And the benefits to that particular country 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 country 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 the a number of Western countries shows that – even where there are a surfeit of PhD economists – that 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, on the other hand, 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.

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 the other, overriding reasons for selecting a different option. The key point here 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, countries 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.
- *Recognize 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 box on "Resources on Defining and Valuing Environmental Damage" following Guideline 40(c) and discussion of economic instruments following Guideline 41(g).

Assistance in Developing Environmental Laws

In many countries (especially in developing countries), governmental offices responsible for drafting legislation and regulations to implement MEAs have a limited number of staff. As a result, there is usually too much work for the available staff, and implementing laws often take a long time to draft (let alone go through the political process of debate, amendment, and adoption). Requests from environmental agencies to the Attorney General, Ministry of Justice, or other institution responsible for drafting legislation sometimes are not 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.

In many instances, MEA Secretariats provide assistance to countries in drafting implementing legislation pertaining to the MEA(s) in their purview [see boxes under the relevant Guideline 34(e) on model legislation and Guidelines 20 and 41(n) on legislative reviews, respectively].

International institutions such as UNEP, UNDP, the World Bank, regional development banks, regional integration organizations (such as CCAD in Central America), and NGOs also provide technical and financial assistance to countries developing laws.

In addition, countries often utilize private consultants to help draft implementing legislation. Experiences with consultants – particularly foreign consultants – 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. Consultants can be expensive, though. Moreover, in some cases, the suggested legislative measures have been unrealistic or not feasible. As a practical matter, donor agencies sometimes insist that the recipient of the aid hire consultants from particular countries. 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 organizations, universities, and the private sector are being used.

The following case studies highlight some positive experiences, as well as some mixed experiences. On the role of consultants more generally, see the box on "Cost-Benefit Analysis of Ratifying the Kyoto Protocol in Sri Lanka" at the beginning of Section I and the box on "Developing a Framework Environmental Law in Sudan" (above).

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 Mr. Robert Wabunoha at rwabunoha@nemaug.org.

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 countries 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. Bishnu Tulsie at btulsie@planning.gov.lc.

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").

National Environmental Action Plans (NEAPs) and other Planning Processes

Over the past decade, many countries 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 countries 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 country, principles that are intended to guide the further development of laws, policies, and institutions.

Some countries have considered MEA obligations with 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 countries have addressed various issues of compliance with MEAs in the context of NEAPs.

Many countries, 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 countries need to revise their NEAPs for reasons not related to MEAs. Based on experience in assisting countries 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 countries 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 countries, 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 countries 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 programs 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 countries 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 country can identify MEA priorities and set forth priority-ranked measures for promoting compliance and enforcement of those MEAs.

Incorporating MEAs into National Environmental Action Plans (NEAPs)

Georgia

The Ministry of Environment finalized 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.

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 country. For example, when Seychelles prepared its Environmental Management Plans, the country considered relevant MEAs (see below).

Many of the strategic planning processes could be improved. Development planning documents could consider environmental factors, including MEAs, more effectively. When policies decentralize responsibilities (including those relating to natural resources and the environment) to more local levels of government, countries should consider whether these levels of government have the expertise or resources to fulfil the responsibilities. If they lack the financial, technical, or personnel resources, are there provisions for providing resources from the national to the subnational 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.

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 3 MEAs and auxiliary agreements (Montreal Protocol, Implementation of Oil Preparedness Response and Cooperation (OPRC 90), Implementation of Marpol & 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 ten 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.

Other issues

In countries 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 country 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, that it is clear which law governs.

Countries 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 countries first have rules ("canons of construction") that try to avoid conflicts. These rules 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 countries (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 countries 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, countries have a priori articulated rules governing potential conflicts. For example, most countries 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 countries 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.

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).
- 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.

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;

The Guidelines recognize 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 are more lax just after the law is adopted and 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.

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 5 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 2 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."

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.

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 analyzing 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 programs (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?

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 to 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.

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 utilization 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 activites. 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 utilization 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. The guidelines are expected to be finalized in 2004.

For more information, contact Ms. Meriden Maranan at planning@pawb.gov.ph.

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 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 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, in the case of spoilage of the natural environment, a penalty 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) but often also include injunctive relief. Other sanctions such as criminal convictions (jail terms and fines) and administrative penalties also play a crucial role in many countries.

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 penalized 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% of the fines that would otherwise be due. Usually, this is done by preparing a program 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 have 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.

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 legal term for factors that can make 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 these acts is automatically violating the law and is subject of the prescribed penalty, which is 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:

(i) Against rare species or species considered endangered, even if only at the site of violation;
(ii) In the period in which hunting is prohibited;
(iii) During the night;
(iv) By abusing the license;
(v) Within a protected area;
(vi) By using method 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:

(i) a result of the fact is the decrease of natural waters, soil erosion or modification of climatic regime
(ii) 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 6 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 as 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 $1,110) or to a term of imprisonment not exceeding three years.

For more information, contact Dr. Henry Carrol at nea@gamtel.gm or Mrs. Fatoumata Jallow Ndoye at fjndoye@qanet.gm .

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 (he has an official legal mandate).

Eric Hypolite at forestry@cwdom.dm.

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 where 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, authorized 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 authorization.
- 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 preventative 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, 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).

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 1 – 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 Belarus

In Belarus, most environmental violations are categorized as either administrative or criminal. The primary distinction between the two types of violations is the "degree of public danger": those violations with the greatest threat to public health or the environment are characterized as criminal. The criminal environmental violations are set forth in the Criminal Code, and the administrative violations are in the Code of Administrative Violations. Private individuals and officials (of corporations and government bodies) can be brought before a court for both criminal and administrative violations. Under the new Code of Administrative Violations, which is not yet in force, legal persons (organisations, plants, enterprises, etc.) can be held administratively responsible (and fined) in a court of law for environmental violations. In addition to criminal and administrative responsibility, legislation also provides for civil responsibility by which violators must compensate material damage to the environment.

State prosecutors can bring suits for environmental crimes and administrative violations. Private individuals can bring civil suits in court if their right to a favourable environment or their right to information has been infringed. NGOs can also bring civil suits on behalf of its member(s) whose rights have been infringed.

Possible sanctions include: fine, arrest (confinement to a jail or prison cell), limitation of liberty (where the person is able to work but must live within a special, designated territory and cannot leave that area), deprivation of liberty, deprivation of right to occupy different function (when the person convicted of a crime or administrative violation occupies some kind of official position, the court can fix as an additional punishment the deprivation of right to occupy official position or function), and other measures. Both criminal and administrative fines are defined in terms of basic units. The Council of Ministers initially established the amount and can modify it by special regulation approximately once every four months. Today, a basic unit is 19,000 Belarus Rubls (or approximately US$8.64). Specific fines for various violations are established in the respective Codes. For example, the Code of Administrative Violations establishes fines for 0.5 to 50 basic units for individuals, and 3 to 300 basic units for officials. Penalties also vary depending on the medium that is harmed (air, water, forests, etc.).

For more information, contact minproos@mail.belpac.by.

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 standardized units. The standardized 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.

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 references 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 & 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).

See also the "Checklist on Environmental Valuation Studies" following Guideline 40 and discussion of economic instruments following Guideline 41(g).

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;

(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 country's institutional framework plays a very important role in the way the international and national environmental laws are implemented. Some countries delegate responsibility to one agency that serves as the focal point for all environmental matters and cooperates with other agencies in this regard. Other countries delegate different responsibilities to various agencies, such as ministries for agriculture,

water resources, etc. Although the structure of the institutional frameworks will vary from country to country, 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 country 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 country:

(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 organizations.

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.

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 organizations.

Environmental Prosecutor Offices

In order to ensure that environmental offences are investigated and prosecuted, many countries 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, organized crime, and other violent crimes – and often are not enthusiastic about devoting scarce resources to environmental violations and offences. A specialized environmental public prosecutor office can provide an institution that ensures that environmental wrongs are prosecuted.

One interesting 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 box on "Guidelines for Prosecuting and Hearing Environmental Cases in Uganda" following Guideline 41(d)). Indeed, the specialized 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 specialized environmental prosecutor offices, there are some potential problems that may need to be addressed. In some countries, 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:

- Prove that a violation has occurred.
- 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 need for the requirement being violated. (This need is often met when the requirement is developed. However, it may be necessary to reiterate the importance of 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 basis).
- 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).
- Demonstrate the ability of the violator to pay, e.g. showing that a "poor" facility is owned by a wealthy parent company.

(Source: INECE).

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/ 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).

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.

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 programs 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 utilization. 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' organizations). 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-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.

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, organization, 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).

Approaches to Information Gathering

INECE has identified several ways to gather information:

Inventories
The enforcement program 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 programs. 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 program 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 program 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, 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.

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. Realizing 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 decision makers, 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 organizations. 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 program.

Focal point. ENVIS is a decentralized 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 organizations/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 utilization capabilities; to promote exchange of information amongst developing countries.

Mekong River: Sub-Regional Environmental Information and Monitoring System

The Asian Development Bank (ADB) and UNEP, in collaboration with the Mekong River Commission, are running 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 organizations, 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 .

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, respectively. 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 certain MEAs, including the CBD, UNFCCC, UNCCD, and the Basel Convention.

For more information, contact epaed@epaghana.org or see http://www.epaghana.org.

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. Oftentimes, 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 program.

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
- 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.

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 countries 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.

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. 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 box 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 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 Kacic-Bartulovic at natasa.kacic-bartulovic@mzopu.hr.

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 countries 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 countries 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 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 country, 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 countries, 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 to at provide 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 bakary.kante@unep.org. For information on judicial capacity-building in the PADELIA framework, see http://www.unep.org/padelia or contact padelia.africa@unep.org.

Checklist for Assistance to Courts

Countries 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 country is a Party;
- casebooks and reporters 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 reporters that include cases from around the world (such as the UNEP compendia, described in the box on "UNEP's Judges Programme" below);
- 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.

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;

One of the most effective ways 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" on Guideline 38, above).

A Deskbook for Customs Officers on Ozone Depleting Substances

Several countries 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.uneptie.org/ozonaction/library/training/main.html.

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. Illegal international trade in commodities such as ozone depleting substances (ODSs), toxic chemicals, hazardous wastes, and endangered 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 initial 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, and the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES). Training of customs officers is also anticipated to be an important element of the national implementation of other MEAs, including 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 Green Customs Initiative recognizes that building the capacity of customs officials, who are at the frontline of every country'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 integrate training and capacity building of customs officials on several MEAs at the same time. This can be more cost effective and efficient than separate training on each individual agreement. The Green Customs Initiative also aims to improve coordinated intelligence gathering, information exchange, and guidance (such as codes of best practice) amongst the partner organizations involved.

The Green Customs approach has many benefits. It helps countries to adopt a coordinated capacity building of national customs officers, encourage more efficient use of national human and financial resources, deter environmental crime, and improve national compliance under five MEAs. For MEA Secretariats, the approach is a cost-effective use of limited financial and human resources, it shares training infrastructure developed by the Secretariats, and the approach facilitates improved, effective, and sustained compliance with the MEAs. And 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.uneptie.org/ozonaction/customs/.

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 country ensures that illegally obtained wildlife products are detected and confiscated (and those responsible prosecuted) before they can be exported.

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 (ODSs) 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/expert control system (Australia, New Zealand, Sweden, Malaysia, Thailand, Singapore, and the Philippines). In all these countries, 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 countries 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 countries around the world, including countries 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.

The SEAP experience demonstrated that Networks can be very successful in transferring knowledge among government officers in developed and developing countries.

CITES Capacity Building for Customs Officers in Georgia

To build capacity of customs officers in Georgia to identify and interdict 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.

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) <http://www.uneptie.org/ozonaction/library/training/main.html#impexp> (step by step guidance for designing and implementing ODS import/export licensing systems).

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 very effective in monitoring and surveillance activities; for example, NGOs such as the Environmental Investigation Agency provide extensive investigations into trade routes of particular kinds of environmental contraband. TRAFFIC (Trade Records Analysis of Flora and Fauna in Commerce), which is supported by NGOs such as IUCN and WWF, is the most developed attempt to provide sustained intergovernmental support and intelligence, and it acts as an occasional independent monitor, clearing house, and international research organization for information on wildlife trade and some fisheries and forestry issues;
- 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; and
- 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.

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 call, 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.

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.

Rules Governing 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 establish 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 organization.

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 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 Ndoye at fjndoye@qanet.gm .

Checklist for Types of Enforcement Authority*

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 specialized 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
- Authority to require service or community work to benefit the environment

*This list of enforcement authorities is a hybrid and does not appear in any one law or country. 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 country 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 countries 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. 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 country'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. 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, and they can help otherwise reluctant enforcement staff 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.

Selecting an Administrative, Civil, or Criminal Response

Violations of environmental laws or regulations can incur administrative, civil, or criminal liability. The ability of an enforcement authority to exercise discretion in selecting which response to take depends on the particular country. For example, administrative or criminal penalties are not available in some countries. Where a country has or is considering a range of administrative, 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 or the impact is particularly 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.
- Intentional and deliberate violations (e.g., decisions to violate based on greed).

Imprisonment – Individual Criminal Liability

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.

Imprisonment has substantial public support in the United States. In the United States, for example, criminal sanctions can be sought if someone willfully circumvents a requirement or fraudulently reports data. Some criminal cases can be costly and involve complex procedures. However, in the United States, their deterrent effect has been so great that even a relatively small number of successful cases have caused many companies to change their management approaches.

Closing a Facility

The threat of closure can be an effective deterrent, particularly in a free market economy where shutdowns directly affect profits.

Denial of Government Funding

Another enforcement option is by denying 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.

Negative Publicity

As part of a settlement, violators may be required to publicize 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. Company executives may be ordered to speak in public about their wrongdoing. In countries 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.

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).

The guidelines are being 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 Mr. Robert Wabunoha at rwabunoha@nemaug.org.

Guyana's Compliance and Enforcement Manual

To assist Guyana's enforcement officers in prosecuting environmental violations and promote transparency and consistency in the enforcement of environmental laws, Guyana's Environmental Protection Agency 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) *The 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 conducted, review of relevant documents related to an environmental authorization, legal review of breach, prepare necessary equipment, review sampling guidelines, and agree 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).

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 Flora and Fauna (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.

Criteria for Enforcement Priorities

41(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 countries 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 countries have instead chosen to set up special programs that prioritize 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 WHO 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 program (i.e. making sure that the administrative and data-gathering aspects of the program are functioning effectively).
- Preserving the integrity of enforcement (i.e. maintaining an enforcement presence).
- Leveraging program resources by focussing on the smaller subset of facilities where changes can have the greatest impact in improving environmental quality and/or creating deterrence.

National Environmental Crime Units

41(f) Establishing or strengthening national environmental crime units to complement civil and administrative enforcement programmes;

Specialized environmental crime units composed of people trained in environmental inspection have been used in several countries with great success. Usually the environmental crime unit is given the same enforcement power as its civil or administrative counterpart. In other cases the units collaborate, utilizing 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 Criminal Investigations

EPA's Criminal program investigated the most significant and egregious violators of environmental laws that 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. EPA's Office of Criminal Enforcement Forensics and Training administers this program through its Criminal Investigation Division. The Criminal Investigation Division (CID) investigates allegations of criminal wrongdoing prohibited by various environmental statues. Such investigations involve, but are not limited to: the illegal 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 a manner inconsistent with the law and regulations, the illegal importation of certain restricted or regulated chemicals into the United States, tampering with a drinking water supply, mail fraud, wire fraud, conspiracy, and money laundering relating to environmental criminal activities.

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.

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. … [O]ne 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 programs 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 if 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 is another way to promote protection of the environment in an economically efficient manner. 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 is 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 amout 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 programs 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 countries, 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 countries 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 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 Programs. 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 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 recognize 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.

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). Recognizing 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 utilize high-efficiency motors by providing interest-free loans to meet the additional cost.

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.

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.

Business 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).

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% import duty, and simultaneously a 30% 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.

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% 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.

Environment Funds

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 we 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.

For more information, contact Mr. Nino Gokhelashvili at gmep@access.sanet.ge.

Uganda's National Environment Fund

Uganda's National Environment Fund (NEF) was established by the National Environment Statute. 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 section;
- 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 Statute or any statutory instrument made under this Statute; and
- gifts, donations and other voluntary contributions to the Fund made from any source.
- 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
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 Mr. Robert Wabunoha at rwabunoha@nemaug.org.

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 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.

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% of the collection and is intended to finance the operations of the protected area that generated the monies. The remaining 25% 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 box on "Participatory Management and Monitoring of Protected Areas in the Philippines" following Guideline 41(a)(ii).

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, contact epaed@epaghana.org or see http://www.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.

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 country 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 countries 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 countries, 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 countries 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.

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 in 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 countries 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 countries 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.

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 country 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. ??-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. ??-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.

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% 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 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% 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 ad 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 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.

Environmental Taxes and Levies

Developing and Enhancing Green Taxes in Norway

In 1994, pursuant to a Parliamentary initiative, the Government of Norway appointed the Norwedian 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 atle.fretheim@mfa.no.

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 .

CITES – Tax and Tariff Incentives

One MEA that may lend itself particularly well to financial incentives is the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). For example, tax and tariff relief could be given to corporations and individual wildlife traders who comply with CITES. Government funds could be committed to promoting research and development of substitutes for wildlife products. Further, governments could fund publicity, reward, and protection programs for individuals reporting criminal and civil violations of CITES. Incentives to corporations and private individual, if developed and aggressively implemented might encourage full compliance with wildlife trade laws, provide positive publicity to responsible actors, and make "business as usual" less economically viable for illegal traders.

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. Bishnu Tulsie at btulsie@planning.gov.lc.

Certification Systems

41(h) Certification systems;

Certification systems can be used in many different ways as a means of encouraging and ensuring compliance with national and international environmental laws. The International Organization for Standardization (ISO) is an internationally recognized certification system for many industries. The ISO 14000 Series has been created as a certification system for standardized environmental management practices.

Certification systems can also be found at the national level. "Eco-labeling" is a generic term for a certification that can be used to identify products that are manufactured or operate in an environmentally sensitive manner. Another example is organic food certification. Yet another example is certificates for automobiles that meet required emissions standards.

National implementation agencies can play an important role in enhancing the credibility and effectiveness of certification systems. These agencies often have access to information that is important for the implementation of the programs and an agency certification can be more meaningful to consumers.

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 to certify 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 140001 scheme. The ISO 140001, another variant of certification systems, is an international standard for measuring how well the environment is managed by an organization. The fundamental principles of ISO 140001 are compliance with legislation and continuous improvement of the certified facilities. The ISO 140001 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.

Eco-Labeling in Indonesia, Singapore, and India

Environmental labeling is being promoted in a number of countries 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.

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 country'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 decision-making is just evolving in many nations around the world, spurred by the commitments of these countries 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 recognized 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 countries 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. In Europe, the 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 specialized 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(o), 43(c), 43(d), 46, and 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).

Citizen Standing in India

The 1998 Supreme Court of India 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 children can file a class suit for themselves, for others of their generation, and for succeeding generations to preserve the country's 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;
- have a common goal 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, 14). The Mexican Criminal Code, as amended in 1996, includes a new chapter on environmental transgressions according to which this 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 ensure the implementation and enforcement of most environmental laws.

Through "citizen-suit" provisions, citizens and NGOs can file suit against government agencies at federal or state levels were they fail to act or against a private party for violating the specific environmental law. These provisions (for example in the Clear Water Act and the Clean Air Act) are usually designed to 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 action. The plaintiff must still satisfy the constitutional standing requirements, namely injury-in-fact caused by the defendant's action. Relief is generally confined to injunctions and civil fines paid to the US government. If the citizen or NGO prevail, they 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 potential abuse by regulatory agencies due to significant disparities in financial capital 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.

What is "standing"?

In most countries, 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 noxious 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 countries though, the requirements for proving standing for certain laws are more open and virtually anyone taking an interest in a conflict has the right to get legally involved.

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.

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 country 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 declared invalid the conclusion of state environmental expertiza (EIA) regarding the Technical and Economic Assessment of Investments for development of the canal. 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 box following Guideline 17, above.

For more information, contact Mr. Andriy Andrusevych at aandrus@mail.lviv.ua.

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 organization 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.

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.

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* (2002), available at http://www.elistore.org/reports_detail.asp?ID=10662.

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.

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).

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 countries around the world is through the requirement for environmental impact assessments (EIAs). Many countries 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.

Environmental Information Disclosure and Performance Rating in China

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: 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, contact Krzysztof.MICHALAK@oecd.org.

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 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).

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 Kacic-Bartulovic at natasa.kacic-bartulovic@mzopu.hr.

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, 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 programs, 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

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 the 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 is 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 specialized 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;
- 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 countries 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 organizations 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

Countries 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 countries, US, 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, 1988 (East African MOU).

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

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* (2002), available at http://www.elistore.org/reports_detail.asp?ID=10662.

Fe Sanchis-Moreno, *Good Practices in Access to Environmental Information* (1999), available at http://www.terracentro.org/Terraweb/Doc-en/BP-en.pdf.

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.

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).

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.

Public Participation in Developing Legislation

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 Mr. Nino Gokhelashvili at gmep@access.sanet.ge.

Public Participation in the Development of Plans and Programmes

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.

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 (NCSD), 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 organizations and donors. The NCSD 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 9 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 emphasizes capacity building, and it includes 7 stages for elaborating and implementing LA21s. These stages are:

Stage 1: Establish the organizational 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 organization 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 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 ahs facilitate 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,

organizations, 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 countries have gone through similar processes in developing their own NBSAPs.

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 it 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 country 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 organizations, 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 box following Guideline 14(b), above.

Public Participation in Implementing MEAs

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 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 Enforcement

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 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

In the United States, the Environmental Protection Agency (EPA) and state environmental agencies host numerous telephone hotlines. These hotlines provide information to members of the public who have questions about various environmental laws, and often also provide an avenue for members of the public to report environmental violations.

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. There is also a Mexico Border hotline.

For more information, see http://www.epa.gov/epahome/hotline.htm.

General Approaches to Public Participation

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 publicized.

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's Resource Management Act and Community Participation. New Zealand's Resource Management Act Community requires public participation. When developing their ten-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 in Environmental Legislation. Public consultation is more common now in Africa 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 organizations 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 thinks, 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 programs on environmental protection and sub-programs on waste management, improvement of ambient air quality, etc.

The non-governmental sector can also participate in the preparation of environmental legislation. MOEW organizes public hearings of draft environmental laws and national programs. 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 authorizes 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 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 IlievaNelly@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).

Access Initiative, available at http://www.accessinitiative.org (including various publications).

Carl Bruch (ed.), *The New "Public": The Globalization of Public Participation* (2002), available at http://www.elistore.org/reports_detail.asp?ID=10662.

International Association for Public Participation, available at http://www.iap2.org.

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).

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).

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 analyze 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".

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, countries 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.

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

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 country 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 box on "Adjusting Penalties to be More Effective in St. Lucia" under Guideline 40(c)].

With assistance from GEF and its implementing agencies, many countries are undertaking National Capacity Needs Self-Assessments (NCSAs) to examine why MEAs and corresponding national laws and regulations are not being implemented as the countries had intended them to be implemented. Below, there is a box on the NCSA process generally, as well as a box summarizing one country's experience with the NCSA process.

Audit of Compliance with the Basel Convention in Austria

Audits by state auditors and national courts of audit can highlight where countries 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 http://www.rekenkamer.nl/waste/.

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 many 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.

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, 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.

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 country 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 country 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.

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 interlinkages, see Guideline 10(e).

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 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 country 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 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 recognized 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 ncsa@nature.am or ncsa@undp.am.

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 countries 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, specialized 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 countries with a judicial structure that lends itself to such specialization may want to consider it.

Specialized 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.

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), 43(c), 43(d), 46, and 47.

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 ten 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 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.

Australia's Specialized Environmental Court

In 1979, the government of New South Wales, Australia established the specialized 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.

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.

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 specialized court to deal with environmental transgressions at the state (i.e., subnational) 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

Environmental courts exist or are being set up at the national, subnational, and local levels in many regions. Below are a few resources relating to some of these courts.

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).

<http://www.justice.govt.nz/environment/> (home page for New Zealand's Environment Court).

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, so the management of that web demands an integrated, holistic approach. In other words, approaching various environmental issues in a piecemeal fashion will not work: 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 (SEPAs) 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.

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.

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 country 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;
- 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;
- 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.

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, 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. Bubu Jallow at bubupateh@yahoo.com (UNFCCC); Dr. Almamy Camara at wildlife@gamtel.gm (CBD); and Mr. Jato Sillah at forestry.dept@gamtel.gm (UNCCD).

Coordination Between National and Subnational Governmental Units

National/Subnational Relationships in Federal Systems: State/Environmental Protection Agency (EPA) Enforcement Agreements in the United States

The United States 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, consequently, compliance monitoring and enforcement in the United States is a highly decentralized operation. Significant authority and responsibility resides with states and localities. Programs which are solely national programs with an exclusive federal role such as enforcement of automobile and fuel standards, toxic chemical production and pesticides registrations, are the exceptions because of interstate commerce considerations.

Although most federal statutes are structured so that the federal Environmental Protection Agency (EPA) delegates its authority to or approves state or local programs, under these same statutes EPA retains parallel enforcement authority, so this inevitably seals the bond of unavoidable coordination between the Federal government and States.

The 1984 Policy Framework for Implementing State/EPA enforcement agreements drawn up between EPA and the States sets out clear roles and responsibility in enforcement. The annual process serves as a forum for reassessing both Federal and State priorities. The Policy Framework also establishes protocols for advance notification and consultation on all inspection and enforcement matters and defines criteria for direct Federal enforcement in delegated programs. In addition, it defines consistent national reporting of five key indicators, for all programs, to access how effectively the national compliance and enforcement program is being carried out. These indicators are:

1. compliance rates;
2. progress in returning significant violators to compliance;
3. number of inspections;
4. number of administrative enforcement actions; and
5. number of judicial referred and filed cases.

Agreements are developed for each program, with each State, and are updated annually. The Policy Framework, annual State/EPA enforcement agreements, and the work of the Steering Committee on the State/Federal Enforcement Relationship are designed to stabilize and continue to improve the relationship. The Steering Committee is composed of about thirty individuals representing all EPA Headquarters compliance office directors, Office of Enforcement, Deputy Regional Administrators, Regional Counsels, Executive Directors of the State Associations and representative State officials (Source: Wasserman).

Capacity Building for District Bye-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 bye-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 bye-laws. This training seeks to:

- introduce environmental regulation as a tool for environmental management at the community level;
- enhance the capacity of the local leaders to formulate environmental bye-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 bye-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 bye-laws, including:

- identifying environmental problems that need regulation;
- drafting bye-laws;
- passing and enacting bye-laws; and
- monitoring compliance with bye-laws and enforcing them as necessary.

For more information, contact Mr. Robert Wabunoha at rwabunoha@nemaug.org.

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 country'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 countries, 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.

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 countries. 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 (CTHP). At the 10th meeting of the CITES Conference of Parties (COP) in 1998, Pakistan requested a quota for CBTH in Northern Pakistan, including the Northern Areas and North West Frontier Province. This request of Pakistan was honored, and a quota of six trophies was allocated for Pakistan.

The CBTH seeks to use the revenues received from the trophy hunting fees to generate income and other sustainable development activities in the areas. 80% of the revenue goes to the community and 20% goes to the respective government agencies as an administrative fee. After allocation of a quota, trophy hunting was first allowed in the Bar Valley of Northern Pakistan, where an abundant population of Ibex (*Capra ibex sibirca*) 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 organizational structures established in the project conservancies in Northern Pakistan are being used for the CTHP.

The response of local communities has been encouraging, and the confidence building measures of the CTHP have promoted sustainable management of biodiversity. As a result of the CTHP 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 COP-14 in 2003). 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 CTHP is given in the following table.

Revenue Generation from Community-Based Trophy Hunts in Pakistan

Hunt No.	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$
1st	One-1999	Unsuccessful	Himalayan Ibex	unknown	Canadian	3000	600	2,400
2nd	One-2000	Successful	Astore markhor	37 inches	American	25000	5,000	20,000
3rd	One-2002	Unsuccessful	Astore markhor	unknown	American	12500	2,500	10,000
4th	One-2003	Successful	Astore markhor	35 inches	American	25000	5,000	20,000
5th	One-2003	Successful	Himalayan Ibex	38 inches	Spanish	3000	600	2400

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 utilization 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 harmonization 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 utilization of natural resources.

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, programs, 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 country's blueprint for sustainable development. The PCSD is mandated to oversee the implementation of the PA 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 4 Committees created correspond to the 4 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 conceptualization 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 Assistance to Armenia, Azerbaijan, Georgia and Moldova with respect to their Global Climate Change Commitments") 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.
- Implementation of the projects.

For more information, contact Mr. Nino Gokhelashvili at gmep@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

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% 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.

Ensuring Implementation through Compensation, Retraining, and Reinstallation in Seychelles

In the early 1990s, the Seychelles Government determined that hawksbill turtles (a CITES-protected 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.

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 Native Lands has been a pioneer in participatory mapping, particularly of indigenous lands in Central and South America. Since the early 1990s, the Center 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.

Indigenous Landscapes describes an approach consisting of three workshops interspersed with two fieldwork periods. This typically takes approximately three months. Project participants are indigenous researchers, a small cartography team, and project directors. Data for the maps are gathered by indigenous researchers chosen by the communities to gather information. The maps contain two types of information: the salient features, natural and man-made, of the territory being mapped (rivers, creeks, swamps, hills; villages, roads, trails), together with their names; and zones used for subsistence activities (hunting; fishing; farming; gathering of medicines, fruit, and building materials; and any other significant cultural use area). During the process, the cartographers assist the indigenous people to put this information into a cartographically accurate map. 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 to a second workshop in which they work with the cartographic team to transcribe this information onto georeferenced maps. Over a period of three weeks, the researchers and the cartographers work with field data, aerial photographs, and government base maps, cross-checking the different types of evidence to produce a new map containing a wealth of cultural information 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 to use the maps to discuss a variety of issues with villagers. 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 communities and indigenous 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 recognized 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 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 with Licensing Bodies for Import and Export

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 endangered species.

United Kingdom Customs and Excise

UK Customs and Excise 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 endangered plants and animals, CFCs and other ozone depleting substances. To comply with the legal requirements set by each country under the CITES agreement, importers and exporters - whether they are tourists or business people - need to present the appropriate CITES permit or declaration to customs. In the UK 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 endangered species, monitoring trade levels on some species which are not even covered by CITES such as many species of seahorse.

UK Customs and Excise has a network of specialist officers called Customs Wildlife 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.

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% 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 country, 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.

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 auxilliaries 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,
- customs officials,
- police,
- public prosecutors,
- magistrates,
- judges, and
- judicial auxiliaries.

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;
- application of analytical intelligence techniques to grade and analyse data and provide pertinent information on targeting environmental criminals.

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 Workshop for customs 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 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.

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.

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.

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 program to be institutionalized 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 box 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 utilized 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.

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 decentralization – 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 Mr. Robert Wabunoha at rwabunoha@nemaug.org.

Role of NGOs in Building Judicial Capacity

Since 1991, the Judicial Education Program at the Environmental Law Institute has developed, presented, and participated in educational workshops on environmental law for judges from fifteen U.S. states and eleven countries. ELI's training has reached hundreds of state and federal judges in the United States and hundreds more in other countries. In developing its courses, ELI works closely with the judiciary and other local partners to develop educational programs and materials that meet the specific needs of a particular jurisdiction. 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 programs. For example, with funding from the Indonesian and Australian governments, the Indonesian Centre for Environmental Law (ICEL) has developed an ongoing training program 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 Courses to Assist in Implementing MEAs

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 Cordoba, and the course of study has been held four 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 second two 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 countries and different organisations involved in implementing and enforcing CITES. For more information, contact Prof. Dr. Margarita África Clemente Munoz at cr1clmum@uco.es or IUA at machado@uniaam.uia.es.

Cross-Training

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 utilizing 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 in Implementing MEAs

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 (ODSs), 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 ODSs. 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 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.

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 country 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 country. One trained field officer from each country 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.

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.

For more information, contact epaed@epaghana.org or see http://www.epaghana.org.

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, contact epaed@epaghana.org or see http://www.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 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 program 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 Program and counter-part funding from the Zambian government – the Environment Support Program – aims at strengthening various capabilities in the nation.

The legal component of this program 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).

Enforcement Training Workshops in Taiwan

Taiwan 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 Hong Kong, 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.

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 (ODSs), 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 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 ODSs.

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 Ozone MEAs. It established two ODS recovery and recycling centers. Two training workshops were held in 1999 on recovery and recycling of ODSs 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 ODSs. 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 Program 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.uneptie.org/ozonaction/library/training/main.html or contact suresh.raj@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 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 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 countries 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).

In addition, UNITAR is developing an e-learning platform that will place include some of its training materials (including modules of the Distance Learning Course on International Environmental Law) on the Internet, making them easily accessible to a large audience around the world. Among the training materials to be placed on the internet

For more information, see http://www.unitar.org/elp/Programme_eng.htm .

Fighting "Brain Drain" while Building Capacity

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 does not finished the training because 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).

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 countries 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.]

In addition to the case studies, explanatory text, and other reference materials in this Guideline, other relevant material may be found in Guidelines 30, 31, 41(a)(iv), and 41(m) and accompanying text. Guideline 43, on training, may also be consulted.

UN Decade of Education for Sustainable Development

In 2002, the UN General Assembly adopted Resolution 57/254 which declared that 2005-2014 was the "Decade of Education for Sustainable Development." The United Nations Educational, Scientific and Cultural Organization (UNESCO) is the lead agency for promoting and coordinating the activities over the decade, with UNEP and other international organizations contributing. For more information, see http://portal.unesco.org/education/en/ev.php-URL_ID=23279&URL_DO=DO_TOPIC&URL_SECTION=201.html.

Educating 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 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.

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.

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 (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 summarized 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.

Other Educational Approaches

States, MEA Secretariats, and international organizations 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 to raise funding), and environmental "holidays."

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 programs in these professional schools includes a combination of 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 +996-312-62-15-19.

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 countries 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 countries 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 countries.
- 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 Levis.Kavagi@unep.org.

Romania's Information Centre – Infoterra Romania

Infoterra Romania is the only office specializing 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 MEDA 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.

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, MEAs and countries 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
June 5: World Environment Day
July 16: World Population Day
September 16: World Ozone Day
September 28: Green Consumer Day
October 1-7: World Wildlife Week

In addition, many countries 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 campaign organized by Government agencies, NGOs, primary and secondary schools, and other institutions. Moreover, countries 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.

Public 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 in all aspects of enforcement, not only in understanding basic environment and human rights, can 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 endangered species. 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, corals, plants, reptiles, shells, and 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).

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 Americans 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 is 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 suggest that the trendy toothfish has become too popular for its own good. Environmentalists warn that unless demand is reduced, the fish may face commercial extinction in as little as five years. Steadily declining annual catches have 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 is to encourage chefs to remove the beleaguered fish from their menus until population begin to recover from widespread and dangerous over fishing, most of which is done by illegal "pirate" fishing boat.

So far, more than 700 chefs nationwide have 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 is spearheading 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 program and encourage them not to purchase the fish at their local markets. By drastically reducing demand for fish, the campaign hopes 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 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."

For more information, contact Gerry Leape (gleape@net.org) or Andrea Kavanagh (akavanagh@net.org).

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 organizations 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 organizations in the private sectors in countries around the world. They have been active in raising public awareness of environment development issues and mobilized 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 countries to organize campaigns to foster environmental awareness.

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.

India and the Environment Support Group (ESG)

The ESG is one of the thousands of NGOs in India active in environmental matters. It is involved in research, training, campaigning, and advocacy on various issues of public concern. It has supported campaigns of coalitions and associations against environmental destruction and social injustice. One example of this is the ESG solidarity support to the local communities who grouped as the Shambari River Protection Committee, and enabled them in securing an Expert Committee investigation based on a debate held in the State assembly. This effort was ultimately successful in halting construction of a potentially unsafe industrial facility.

Nigeria and Shell Petroleum Development Company Nigeria Limited (SPDC)

In the wake of its many travails and intense pressure, from the international/ national media and the local indigenes of the Niger Delta region of Nigeria, its major operational area, SPDC, the leading oil producing company in the country, appeared to have made what was a strategic corporate rethinking that ushered in a new era of Environmental Policy for the company, which from all indications has stood the test of time. In the mid-nineties SPDC initiated the Niger Delta Environmental Survey (NDES), project and reviewed its Community Development initiatives in the light of the emerging sustainable development concepts. There are many components of the NDES Project and the CD initiatives introduced by Shell, some of these include capacity building, education, health care and public awareness raising in the Niger Delta region. Shell through regular sponsored campaigns, conferences, seminars, workshops and communal activities has contributed greatly to the enhancement of public awareness, training and education of the indigenes of the Niger Delta, one of the most environmentally fragile and sensitive region in the world. A clearly defined budget is allocated towards this purpose and this has remained an integral part of the company policy and the Company Mission Statement.

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 countries already where environmental education is being introduced into the curricular of educational institutions for pre-school through institutions of higher learning.

"Mainstreaming" environmental education programs 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 programs.

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 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 country 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 countries use formal education centres as sources of environmental education. Indonesia, for example, has promoted environmental consciousness through its 54 Environmental Study Centers.

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 organizations to evaluate development, environmental policies and programs 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% of the global population and will be the decision-makers 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 decision-making and in the implementation of programmes has been internationally recognized as critical to sustainable development. [See Explanatory notes on Guideline 29.]

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 schools so that Bahamian youth could watch the progress of the Big Help mobile.

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, 7 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

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 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 1). 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. Recognizing 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 countries 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 emphasize that aspect of sustainable lifestyle which was most likely to be adopted in their country (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 countries. 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. 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

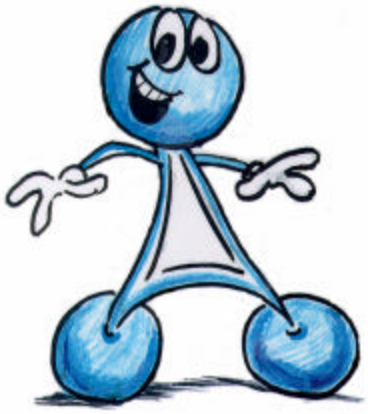
UNEP convenes the Global Youth Retreat every two years in conjunction with the regular sessions of the UNEP Governing Council/Global Ministerial Environment Forum. The Retreat provides youth leaders with an opportunity to discuss youth input into UNEP work and to suggest ways of enhancing cooperation 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 graphical artist Mr. Guy O'Neal. 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.

In fact, 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 summarized the 1999 Ozone Day activities.] Under a 2000 agreement with Barbados, the OzonAction Programme of UNEP/DTIE uses Ozzy in awareness and education materials that are mass-produced for global distribution. As an Ozone mascot, Ozzy has proven to be an effective public awareness tool, particularly for raising awareness amongst children. Under the terms of the agreement, use of the logo is subject to payment to Government of any monies resulting from the usage (i.e., the license is solely for non-profit purposes). The regional UNEP office (ROLAC) has also obtained permission for non-profit use of the Ozzy graphic in the English Speaking Caribbean Network.

In 2003, Icon Studios developed a 3-dimensional version of the Ozzy graphic. The original and modified versions of Ozzy Ozone are shown below, left and right, respectively.



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 56 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 15 national languages by various governments. 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.

For more information, contact Ms. Donna King (kingdo@gob.bb), Ms. Karen Smith (smithka@gob.bb) in the Ministry of Housing, Lands and the Environment, 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.

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.

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 programs 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.

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, <u>inter alia</u>, UNEP. The following considerations could be kept in view.

Enforcement of laws implementing MEAs can pose a difficult challenge for many countries. Opportunities for cooperation and coordination, although many, need to be increased to improve the capacity and capability of all countries 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 countries 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.

<u>Checklist for Developing Projects to Facilitate International Cooperation in Enforcement</u>

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 **utilizes 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). Countries can work together, either independently or through an international organization 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 countries are Parties to CITES and an individual in one of these countries illegally exports an endangered animal protected by the Convention to the other country, this unlawful action can best be prosecuted when there are consistent laws in both countries. If the laws implementing CITES in both countries contain consistent definitions of the relevant terms (such as "illegal export" and "trade"), 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 countries 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 organizations.

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.).

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.

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 harmonize environmental laws and regulations. NAAEC requires that each Party (i.e. Canada, United States and Mexico) ensures that its laws provide for high levels of environmental protection without lowering standards to attract investment. Each Party agreed to effectively enforce its environmental laws through the use of inspectors, monitoring compliance and pursuing the necessary legal means to seek appropriate remedies or violations. The tendency therefore is that the Parties will develop a common approach to dealing with environmental laws violations within and across national boundaries in that region. Each Party must also provide a report on the state of its environment, develop environmental emergency preparedness measures, promote environmental education, research and development, assess environmental impacts and promote the use of economic instruments. The Commission of Environmental Cooperation was created by NAAEC to enhance regional environmental cooperation, reduce potential trade and environmental conflicts and promote the effective enforcement of environmental law.

The European Commission Environment Directorate-General

The Environment DG is one of the 36 Directorates-General (DGs) and specialized 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 countries greatly enhances the effectiveness of enforcement efforts in crimes with transboundary aspects.

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. Harmonized 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.

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.

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 countries 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 countries 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.

Harmonization 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 harmonized environmental management systems, build capacity, enhance coordination among environmental officials, harmonize environmental laws, and strengthen national environmental authorities.

In this context, CCAD has assisted its current seven Member Countries (now also including Belize and Panama) to develop environmental laws. CCAD worked with countries 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 the 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 harmonization of environmental laws in the region. While the environmental laws are not harmonized per se, they now share many common approaches.

CCAD has also helped countries 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.

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, 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.

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 countries 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 countries have taken to enhance judicial cooperation.

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.

Networks for judicial communication, such as the European Judicial Network example provided below, can play an important role in information sharing between countries that are working on the same environmental crime and other legal issues. In addition, UNEP's Judges Program and the UNEP/IUCN Judicial Portal – discussed in a box following Guideline 41(a)(v) – provide opportunities for judges to exchange experiences.

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 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.

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 plants, animals, chemicals substances, toxic wastes, are banned or controlled on paper (i.e. in the national statute books), the written laws are of little or no effect without effective institutional and material means 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 countries 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 countries) 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 country 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, contact Mr. Emily S. Kisamo at Skisamo@lusakaagreement.org.

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 Organization and relevant international entities, research institutes and NGOs and the international law enforcement agencies such as the International Criminal Police Organization (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 European Network on the Implementation and Enforcement of Environmental Law (IMPEL), and similar regional networks. More information on these networks is available in the discussion of Guideline 34(c). Guideline 41(b) 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 organization), 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.

Despite the contribution and helpful guide of control and monitoring tools afforded through some MEA mechanisms such as the MIKE (Monitoring the Illegal Killing of Elephants) and ETIS (Elephant Trade Information System); the Montreal Protocol Formal International Licensing System, established through its 1997 Montreal Amendment; the helpful tracking and information guide through simple mechanisms like Interpol's "Eco-message" form; or data gathered from NGOs like TRAFFIC, the national borders of several countries are still very porous to international environmental contraband trafficking.

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 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.).

The Green Customs Initiative, described in a box following Guideline 41(b), also describes an approach for strengthening capacity of 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 Kacic-Bartulovic 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 countries 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 countries 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 countries' 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 countries 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).

The Committee is also responsible for completing the legal regulatory framework of the watershed area, as well as drafting and implementing strategies, programs, and action plans for Lake Ohrid and its watershed. In particular, the Committee is charged with drafting and implementing a program to develop effective monitoring systems to protect the environment – including water quality – of Lake Ohrid and its watershed (the program has been prepared and a site visit is planned for the 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.

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 boxes following Guidelines 41(b) and 43, respectively.

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 countries undertake to:

- inform an international organisation whenever a chemical is severely restricted or banned in that country;
- advise the organisation of that country's decision on the importation of chemicals made subject to the PIC procedure;
- take measures to inform their exporters of the decisions of other countries; and
- take actions within their jurisdiction to help ensure that their exporters comply with the decisions of importing countries.

In 1998, governments adopted the Rotterdam Convention, which makes the PIC procedure legally binding for Parties. The discontinuation of the voluntary PIC procedure will be decided by the 1st COP of the Rotterdam Convention.

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 (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 countries 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 harmonization 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 Countries, 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, contact ESobakina@unep.ch.

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.

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 countries, and the link can be employed to facilitate the enforcement activities of national agencies inter se, since the Task Force provide a platform to link with the national bureaux of other countries. [See the explanatory note under Guideline Paragraph 48's introduction above.]

The Green Customs Initiative [see Guideline 41(b)], the Lusaka Agreement Task Force (LATF) [see Guideline 43], and the World Customs Organization 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 countries, but particularly developing countries and countries with economies in transition, can benefit from regional and sub-regional training programmes for official 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 countries 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 box following Guideline 41(b)) and efforts by the Lusaka Agreement Task Force (described in a box following Guideline 43).

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 project 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 project 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.

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 recognize 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) is probably the biggest obstacle to the full implementation of MEAs today. This point cannot be emphasized too strongly as it provides the clearest indication of the only way forward in our efforts to achieve compliance with MEAs: we do not need to address the will of Parties to implement MEAs, as the will is not lacking; we need to build and strengthen capacity wherever it is insufficient.

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.

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 organization has helped to develop capacity both at international and national levels. According to Dr. Klaus Töpfer, 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."

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 fulfil 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 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.

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 country. 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.

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 program 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 7 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 programs, 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)." 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, and 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 assessments, 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 provided assistance in legislative drafting, 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.

Basel Convention Guidelines

The Technical Working Group of the Basel Convention has prepared technical guidelines on the following waste streams and disposal operations:

- 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.

EECCA 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 utilize 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.

Transboundary EIA Guidelines around the Caspian Sea

The 5 countries 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 countries 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 countries are parties to the MEA that the guidelines seek to implement offers a unique inspiration, as all countries acknowledge the benefit of the guidelines for their environmental management.

However, the absence of an agreed procedures for conducting an EIA and for informing potentially affected neighbouring countries 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 is 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 countries 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 utilizing 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,
- 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 countries that share the same marine and coastal area, through the Regional Seas Programmes 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 countries 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 boxes following Guidelines 43 and 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 workshop 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.

In addition to the workshops below, see the box on capacity building under the Lusaka Agreement following Guideline 43 and the box on the Regional Environmental Center for Central and Eastern Europe following Guideline 34(b).

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 and African countries in particular. Such centres will be of the utmost importance for the African 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 for the African Region:

- 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.

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 as 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:** Three subregional centres were proposed, one each for: (i) Arabic-speaking countries, (ii) English-speaking countries, and (iii) French-speaking African countries.
- **Central and Eastern Europe:** Slovak Republic
- **Asia Pacific:** China

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.

Regional Capacity Building through International Law Enforcement Academies

The International Law Enforcement Academy (ILEA) program 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 counternarcotics, ILEA also addresses 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.

For more information, see http://www.ileabangkok.com/ or http://www.usembassy.hu/ilea.htm.

Regional Environmental Cooperation in 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) 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.

For more information, contact Dr. Karine Danielyan at kdanel@freenet.am.

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 (box on CERN), and 48 (box on Lusaka Agreement).

UNEP Workshop on Enforcement of and Compliance with Multilateral Environmental Agreements (MEAs), Geneva, 12-14 July 1999

In July 1999, UNEP with the support of the G8 countries and financial contributions from the UK, Canada, Germanys and Japan, convened its First Global Workshop on Enforcement of and Compliance with MEAs. Although the workshop essentially focused on illegal trade, environmental crime and violations of the provisions of the three Conventions: CITES, Basel and Montreal Protocol, it marked a new era for UNEP's commitment to similar training programmes for enforcement of MEAs in general. About forty-eight experts from developed and developing countries, including countries with economies in transition, drawn from law enforcement, customs, prosecution and police participated in the workshop. Experts who attended returned home armed with a host of wealthy materials for their databases, strong contacts, and a clear view of what is desired at national and regional levels.

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 biannual International Conference on Environmental Compliance and Enforcement since 1990. The most recent is the Sixth International Conference on Environmental Compliance and Enforcement, held in San Jose, Costa Rica, April 15-19, 2002. 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. For more information on INECE, see the box on "Global Initiatives to Share Experiences in Environmental Management" following Guideline 34(c).

Regional Networks of ODS Officers under the Montreal Protocol

Regional networking of officers responsible for ozone-depleting substances (ODSs) 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 box on "Regional Networks and South-South Cooperation to Assist Countries in Complying with the Montreal Protocol" accompanying Guideline 34(c).

Annex I

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:

(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.

2. Effective participation in negotiations

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

[1] Acknowledging that the term compliance has distinct relevance within the respective fields covered by both chapters and is a term well known and understood by those involved in both fields, albeit with a different understanding, it was decided to use two different definitions for this term in these guidelines, one for each chapter.

(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 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.

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 country 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:

[2] Acknowledging that the term compliance has distinct relevance within the respective fields covered by both chapters and is a term well known and understood by those involved in both fields, albeit with a different understanding, it was decided to use two different definitions for this term in these guidelines, one for each chapter.

(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 auxilliaries 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.

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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., recognized the serious environmental effects of MEA violations, and stated the need also to combat organized 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 recognized the need for continuous work on issues of compliance, enforcement and environmental crime.

Governments emphasized 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 emphasized. The value and importance of international cooperation and coordination in combating environmental crime was recognized, 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 twenty-first 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.

When adopting the Guidelines, the UNEP GC sought to disseminate the Guidelines to Governments, MEA secretariats, and international organizations. The GC further sought to implement the Guidelines through the UNEP work programme, in close collaboration with States and international

organizations. 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 country 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 country 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 country 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 faced the same penalties for the same offences in every country.

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, Cook Islands 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 joints. 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 statues 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-MEAsImplementationintheCaribbean.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 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)
Jacques Mougeot, SPREP (JacquesM@sprep.org.ws) (South Pacific)
Isabel Martinez (i.martinez@unep.nl) or Amy Hindman (amy.hindman@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 organizations relevant to compliance and enforcement (C&E) of environmental laws and multilateral environmental agreements (MEAs). The contact list is not exhaustive.

International organizations

United Nations Environment Programme (UNEP)

UNEP Headquarters
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Division of Policy Development and Law (DPDL)

* All UNEP Divisions are located at UNEP Headquarters with the exception of DTIE.
** Internet access to all UNEP Divisions and additional e-mail addresses are available from the UNEP web site http://www.unep.org.
*** 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.

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Division of Environmental Policy Implementation (DEPI)
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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)
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International Environmental Technology Centre (IETC); Production and Consumption; Chemicals; Energy and Ozone Action; Economics and Trade; Coordination of Regional Activities.

Division of Regional Cooperation (DRC)
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Division of Environmental Conventions (DEC)
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Global Environmental Conventions; Regional Seas Conventions and Action Plans.

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Division of Global Environment Facility Coordination (DGEF)
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Annex VI

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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 reorganized 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

Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal
<http://www.basel.int>
<http://www.ban.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>

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.uneptie.org/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)

Regional Seas Conventions
<http://www.unep.ch/seas/> (including conventions and other legal instruments)
<http://fletcher.tufts.edu/multi/marine.html> (marine and coastal MEAs)

South Pacific Regional Environment Programme (SPREP)
<http://www.sprep.org.ws/> (for the Waigani Convention and Apia Convention, and related materials)

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.ing>

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>

International Network for Environmental Compliance and Enforcement (INECE): <http://www.inece.org>

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/wcelpub/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>

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 Herzigovina, 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 block 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

Abbreviations and Acronyms

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
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
AMCEN: African Ministerial Conference on the Environment
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
BAT: Best available technology
BFAR: (Philippines) Bureau of Fisheries and Aquatic Resources
BoC: Bureau of Customs (e.g., Philippines)
AOSIS: Association of Small Island States
CACMA: Central Asia, Caucasus, Moldova, and Albania
CARICOM: Caribbean Community
CBD: Convention on Biological Diversity
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
CCCCC: Caribbean Community Climate Change Centre
CDI: Capacity Development Initiative (GEF)
CDM: Clean Development Mechanism
CEC: (North American) Commission for Environmental Cooperation
CEE: Central and Eastern Europe
CEL: (IUCN) Commission on Environmental Law
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)
CITES: Convention on International Trade in Endangered Species of Flora and Fauna
CLEEN: Chemical Legislation European Enforcement Network
CMS: Convention on the Conservation of Migratory Species of Wild Animals
COA: Council of Agriculture (Taiwan)
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)
CSD: (UN) Commission on Sustainable Development

CSSL: Conservation Society of Sierra Leone
CTHP: Community Based Trophy Hunting Programme (e.g., Pakistan)
CV: Curriculum vitae
CZMA: Coastal Zone Management Act (e.g., Barbados) or Coastal Zone Management Authority
DANCEE: Danish Agency for Environment for 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)
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
EAJA: Equal Access to Justice Act (United States)
EBR: Environmental Bill of Rights (Ontario, Canada)
EBRD: European Bank for Reconstruction and Development
ECZ: Environmental Council of Zambia
EDPRP: Economic Development and Poverty Reduction Program (e.g., Georgia)
EEA: Executive Environment Agency (e.g., Bulgaria)
EECCA: Eastern Europe, Caucasus, and Central Asia
EGAT: Electricity Authority of Thailand
EIA: Environmental impact assessment
ELC: (IUCN) Environmental Law Centre
ELI: Environmental Law Institute
ELNI: Environmental Law Network International
EMB: Environmental Management Bureau (e.g., Philippines)
EMCA: Environmental Management and Coordination Act (e.g., Kenya)
EMEP: Cooperative Program for Monitoring and Evaluation of the Long-Range Transmission of Air Pollutants in Europe
EMPS: Environment Management Plan of Seychelles
ENVIS: Environmental Information System (India)
EPA: Environmental Protection Agency (e.g., Ghana, United States)
EPL: Ecopravo-Lviv
ER: Environmental Registry (Canada)
ESDU: Environment and Sustainable Development Unit (e.g., OECS)
ESG: Environment Support Group
ETIS: Elephant Trade Information System (under CITES)
EU: European Union
EUROBATS: (CMS) Agreement on the Conservation of Populations of European Bats
FAO: UN Food and Agriculture Organisation
FEPA: Federal Environmental Protection Agency (e.g., Nigeria)
FYR: Former Yugoslav Republic
G-8: Group of Eight (Developed Countries)
G-77: Group of Seventy-Seven (Developing Countries)
GATT: General Agreement on Tariffs and Trade
GC: Governing Council
GEF: Global Environment Facility
GIS: Geographic Information System
GLOBE: Global Legislators Organisation for a Balanced Environment
GMO: Genetically modified organism
GRAIN: Genetic Resources Action International
GRULAC: Group of Latin American and Caribbean Countries
GSPC: (CBD) Global Strategy for Plant Conservation
HCENR: Higher Council for Environment and Natural Resources (Sudan)

IABA: Inter-American Bar Association
IACBGR: Inter-agency Committee on Biological and Genetic Resources (e.g., Philippines)
IDA: International Development Agency
IEC: Information, Education, and Communication (under the Montreal Protocol)
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
IFCS: Intergovernmental Forum on Chemical Safety
INC: Intergovernmental Negotiating Committee
IOMC: Inter-Organization Programme on the Sound Management of Chemicals
IPAF: Integrated Protected Area Fund (e.g., Philippines)
IPPC: Integrated Pollution Prevention and Control
ISO: International Organization for Standardization
IUCN: The World Conservation Union
IUU: Illegal, Unregulated, and Unreported (fishing)
JLG: Joint Liaison Group
JUSCANZ: Japan, United States, Canada, Australia, and New Zealand (plus other countries, as set forth in Annex VI)
KCDC: Khartoum Centre Development Corporation
LA21: Local Agenda 21
LDC: Least developed country
LEC: Land and Environment Court (Australia)
LMO: Living modified organism
LRTAP: (Convention on) Long-Range Transboundary Air Pollution
LULUCF: Land Use, Land-Use Change, and Forestry
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)
MEA: Multilateral Environmental Agreement
MENR: Ministry of Environment and Natural Resources (e.g., Seychelles)
MERCOSUR: Mercado Común del Sur (or Common Market of the South, 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
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
NAAEC: North American Agreement on Environmental Cooperation
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)
NBF: National Biosafety Framework
NBSAP: National Biodiversity Strategy and Action 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
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
NET: National Environmental Trust
NEF: National Environment Fund (Uganda)
NEMA: National Environmental Management Authority (Uganda)
NGA: Negotiated Greenhouse Agreement
NCPGR: National Committee on Plant Genetic Resources (Philippines)
NCSA: National Capacity Self Assessment
NDDU: National Desertification Control and Monitoring Unit (e.g., Sudan)
NEDA: National Economic Development Authority (e.g., Philippines)
NEIC: National Environmental Information Centre (Uganda)
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)
ODS: Ozone Depleting Substance
OECD: Organisation for Economic Co-operation and Development
OECS: Organisation of Eastern Caribbean States
OPRC: [Convention on] Oil Pollution Preparedness, Response and Cooperation
OSCE: Organization for Security and Co-operation in Europe
PADELIA: (UNEP) Partnership for Development of Environmental Law and Institutions in Africa
PAH: Polycyclic Aromatic Hydrocarbon
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 Food and Agriculture
PIC: Prior Informed Consent
POD: Philippine Ozone Desk
POPs: Persistent Organic Pollutants
PPT: Permanent People's Tribunal (India)
PRSP: Poverty Reduction Strategy Paper
PRTR: Pollutant release and transfer register
PSC: Project Steering Committee
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
RIS: Ramsar (Convention) Information Sheet
RMPs: Refrigerant Management Plans
ROLAC: (UNEP) Regional Office for Latin America and the Caribbean
RPIU: Regional Project Implementation Unit
RSPB: Royal Society for the Protection of Birds

SACEP: South Asia Cooperative Environment Programme
SAICM: Strategic Approach to International Chemicals Management
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
SECS: Sudanese Environment Conservation Society
SEE: South Eastern Europe
SEPA: State Environmental Protection Agency (e.g., in China and Nigeria)
SFT: Norwegian Pollution Control Authority
SIAM: Mesoamerican Environmental Information System (known by its Spanish acronym)
SIDS: Small island developing state
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: South Pacific Regional Environment Programme
SRG: (EC) Scientific Review Group
STRP: Scientific and Technical Review Panel (of the RAMSAR Convention)
TEAP: (UNEP) Technology and Economic Assessment Panel
TRAFFIC: Trade Records Analysis of Fauna and Flora in Commerce
TRIPS: (WTO Agreement on) Trade-related Intellectual Property Rights
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
UNDP: United Nations Development Programme
UNECE: United Nations Economic Commission for Europe
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
UWI: University of the West Indies
VOC: Volatile organic compound
WCMC: World Conservation and Monitoring Centre
WCO: World Customs Organisation
WCS: Wildlife Clubs of Seychelles; also Wildlife Conservation Society
WHO: World Health Organization
WIPO: World Intellectual Property Organization
WPIEI: (EC) Working Party on International Environment Issues
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

Sample Forms and Documents

A number of MEAs have developed standardized 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 standardized forms, letters, and documents; but so have other MEAs (including the Ramsar Convention, see below). This Annex includes a sampling of such forms.

NOTE: These forms are provided for information purposes only. Only the designated national contact points for a particular MEA should fill out the 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 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.

Basel Convention Forms

The Basel Convention home page includes a few forms for download:

- Basel Notification Form <http://www.oztoxics.org/waigani/basel/refer_c2.html>
- Basel Movement Form <http://www.oztoxics.org/waigani/basel/refer_c2.html>

CITES Forms

The CITES home page includes forms for download. These forms include, for example:

- Incident Report Form on Illegal Hunting of Elephants <http://www.cites.org/eng/notifs/1999/093a1.pdf>
- National Reporting Form on Illegal Killing of Elephants <http://www.cites.org/eng/notifs/1999/093a2.pdf>
- National Reporting Form on Enforcement Actions (relating to illegal elephant trade) <http://www.cites.org/eng/notifs/1999/093a2.pdf>
- Standard Form for Reporting Non-Compliance with Transport Guidelines <http://www.cites.org/common/cttee/PC/14/X-PC14-15-Inf.pdf>

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)

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.

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