

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 were prepared for submission to the UNEP Governing Council special session for review and adoption. They were adopted in decision SS.VII/4.
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:

(a) “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

(b) “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:

(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;

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.

(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:

- (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.

5. Review of effectiveness

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

6. Compliance mechanisms after a multilateral environmental agreement has come into effect

16. Compliance mechanisms or procedures could be introduced or enhanced after a multilateral environmental agreement has come into effect, provided such mechanisms or procedures have been authorised by the multilateral environmental agreement, subsequent amendment, or conference of the parties decision, as appropriate, and consistent with applicable international law.

7. Dispute settlement provisions

17. In principle, provisions for settlement of disputes complement the provisions aimed at compliance with an agreement. The appropriate form of dispute settlement mechanism can depend upon the specific provisions contained in a multilateral environmental agreement and the nature of the dispute. A range of procedures could be considered, including good offices, mediation, conciliation, fact-finding commissions, dispute resolution panels, arbitration and other possible judicial arrangements which might be reached between concerned parties to the dispute.

E. National implementation

1. National measures

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

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

20. Law and regulatory framework: According to their respective national legal frameworks, States should enact laws and regulations to enable implementation of multilateral environmental agreements where such measures are necessary for compliance. Laws and regulations should be regularly reviewed in the context of the relevant international obligations and the national situations.

21. National implementation plans: the elaboration of national implementation plans referred to in paragraph 14 (b) for implementing multilateral environmental agreements can assist in integrating multilateral environmental agreement obligations into domestic planning, policies and programmes and related activities. Reliable data collection systems can assist in monitoring compliance.

22. Enforcement: States can prepare and establish enforcement frameworks and programmes and take measures to implement obligations in multilateral environmental agreements (chapter 2 contains guidelines for national 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 multilateral environmental agreements, 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

(c) “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;

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.

(d) “Enforcement” means the range of procedures and actions employed by a State, its competent authorities and agencies to ensure that organizations or persons, potentially failing to comply with environmental laws or regulations implementing multilateral environmental agreements, can be brought or returned into compliance and/or punished through civil, administrative or criminal action.

D. National enforcement

39. Each State is free to design the implementation and enforcement measures that are most appropriate to its own legal system and related social, cultural and economic circumstances. In this context, national enforcement of environmental and related laws for the purpose of these guidelines can be facilitated by the following considerations.

1. National laws and regulations

40. The laws and regulations should be:

(a) Clearly stated with well-defined objectives, giving fair notice to the appropriate community of requirements and relevant sanctions and enabling effective implementation of multilateral environmental agreements;

(b) Technically, economically and socially feasible to implement, monitor and enforce effectively and provide standards that are objectively quantifiable to ensure consistency, transparency and fairness in enforcement;

(c) Comprehensive with appropriate and proportionate penalties for environmental law violations. These would encourage compliance by raising the cost of non-compliance above that of compliance. For environmental crime, additional deterrent effect can be obtained through sanctions such as imprisonment, fines, confiscation of equipment and other materials, disbarment from practice or trade and confiscation of the proceeds of environmental crime. Remedial costs should be imposed such as those for redressing environmental damage, loss of use of natural resources and harm from pollution and recovery of costs of remediation, restoration or mitigation.

2. Institutional framework

41. States should consider an institutional framework that promotes:

(a) Designation of responsibilities to agencies for:

(i) Enforcement of laws and regulations;

(ii) Monitoring and evaluation of implementation;

(iii) Collection, reporting and analysis of data, including its qualitative and quantitative verification and provision of information about investigations;

(iv) Awareness raising and publicity, in particular for the regulated community, and education for the general public;

(v) Assistance to courts, tribunals and other related agencies, where appropriate, which may be supported by relevant information and data.

(b) Control of the import and export of substances and endangered species, including the tracking of shipments, inspection and other enforcement activities at border crossings, ports and other areas of known or suspected illegal activity;

- (c) Clear authority for enforcement agencies and others involved in enforcement activities to:
 - (i) Obtain information on relevant aspects of implementation;
 - (ii) Have access to relevant facilities including ports and border crossings;
 - (iii) Monitor and verify compliance with national laws and regulations;
 - (iv) Order action to prevent and remedy environmental law violations;
 - (v) Coordinate with other agencies;
 - (vi) Impose sanctions including penalties for environmental law violations and non-compliance.
- (d) Policies and procedures that ensure fair and consistent enforcement and imposition of penalties based on established criteria and sentencing guidelines that, for example, credibly reflect the relative severity of harm, history of non-compliance or environmental law violations, remedial costs and illegal profits;
- (e) Criteria for enforcement priorities that may be based on harm caused or risk of harm to the environment, type or severity of environmental law violation or geographic area;
- (f) Establishing or strengthening national environmental crime units to complement civil and administrative enforcement programmes;
- (g) Use of economic instruments, including user fees, pollution fees and other measures promoting economically efficient compliance;
- (h) Certification systems;
- (i) Access of the public and civil society to administrative and judicial procedures to challenge acts and omissions by public authorities and corporate persons that contravene national environmental laws and regulations, including support for public access to justice with due regard to differences in legal systems and circumstances;
- (j) Public access to environmental information held by Governments and relevant agencies in conformity with national and applicable international law concerning access, transparency and appropriate handling of confidential or protected information;
- (k) Responsibilities and processes for participation of the appropriate community and non-governmental organizations in processes contributing to the protection of the environment;
- (l) Informing legislative, executive and other public bodies of the environmental actions taken and results achieved;
- (m) Use of the media to publicize environmental law violations and enforcement actions, while highlighting examples of positive environmental achievements;
- (n) Periodic review of the adequacy of existing laws, regulations and policies in terms of fulfilment of their environmental objectives;
- (o) Provision of courts which can impose appropriate penalties for violations of environmental laws and regulations, as well as other consequences.

3. National coordination

42. Coordination among relevant authorities and agencies can assist national enforcement, including:

- (a) Coordination among various enforcement agencies, environmental authorities, tax, customs and other relevant officials at different levels of government, as well as linkages at the field level among cross-agency task forces and liaison points, which may include formal agreements such as memoranda of understanding and rules of procedure for communication, as well as formulation of guidelines;
- (b) Coordination by government agencies with non-governmental organizations and the private sector.
- (c) Coordination among the authorities responsible for promoting licensing systems to regulate and control the importation and exportation of illicit substances and hazardous materials, including regulated chemicals and wastes.

4. Training for enhancing enforcement capabilities

43. Training activities for enhancing enforcement capabilities can comprise of:

- (a) Programmes to build awareness in enforcement agencies about their role and significance in enforcing environmental laws and regulations;
- (b) Training for public prosecutors, magistrates, environmental enforcement personnel, customs officials and others pertaining to civil, criminal and administrative matters, including instruction in various forms of evidence, case development and prosecution, and guidance about imposition of appropriate penalties;
- (c) Training for judges, magistrates and judicial auxiliaries regarding issues concerning the nature and enforcement of environmental laws and regulations, as well as environmental harm and costs posed by violations of such laws and regulations;
- (d) Training that assists in creating common understanding among regulators, environmental enforcement personnel, prosecutors and judges, thereby enabling all components of the process to understand the role of each other;
- (e) Training of environmental enforcement personnel including practical training on inspection techniques, advanced training in investigation techniques including surveillance, crime scene management and forensic analysis;
- (f) Development of capabilities to coordinate action among agencies domestically and internationally, share data and strengthen capabilities to use information technology for promoting enforcement;
- (g) Development of capabilities to design and use economic instruments effectively for enhancing compliance;
- (h) Development of innovative means for securing, raising and maintaining human and financial resources to strengthen enforcement;
- (i) Application of analytical intelligence techniques to grade and analyse data and provide information to assist in targeting resources on environmental criminals.

5. Public environmental awareness and education

44. Public environmental awareness and education can be increased by the following actions:

- (a) Generating public awareness and environmental education, particularly among targeted groups, about relevant laws and regulations and about their rights, interests, duties and responsibilities, as well as about the social, environmental and economic consequences of non-compliance;
- (b) Promoting responsible action in the community through the media by involving key public players, decision-makers and opinion-builders in such campaigns;
- (c) Organizing campaigns for fostering environmental awareness among communities, non-governmental organizations, the private sector and industrial and trade associations;
- (d) Inclusion of awareness and environmental educational programmes in schools and other educational establishments as part of education;
- (e) Organizing campaigns for fostering environmental awareness and environmental educational programmes for women and youth;
- (f) Organizing campaigns for encouraging public involvement in monitoring of compliance.

E. International cooperation and coordination

45. Consistent with relevant provisions in multilateral environmental agreements, national enforcement of laws and regulations implementing multilateral environmental agreements could be supported through international cooperation and coordination that can be facilitated by, *inter alia*, UNEP. The following considerations could be kept in view.

1. Consistency in laws and regulations

46. States, within their national jurisdictions, can consider developing consistent definitions and actions such as penalties and court orders, with a view to promoting a common approach to environmental law violations and environmental crimes, and enhance international cooperation and coordination, for environmental crimes with transboundary aspects. This may be facilitated by:

- (a) Environmental laws and regulations that provide appropriate deterrent measures, including penalties, environmental restitution and procedures for confiscation of equipment, goods and contraband, and for disposal of confiscated materials;
- (b) Adoption of laws and regulations, implemented and applied in a manner that is consistent with the enacting state's international obligations, that make illegal the importation, trafficking or acquisition of goods, wastes and any other materials in violation of the environmental law and regulations;
- (c) Appropriate authority to make environmental crime punishable by criminal sanctions that take into account the nature of the environmental law violation.

2. Cooperation in judicial proceedings

47. Cooperation between and amongst states in judicial proceedings may be facilitated by:

(a) Cooperation in judicial proceedings and procedures related to testimony, evidence and similar matters, including exchange of information, mutual legal assistance and other co-operative arrangements agreed between the concerned countries;

(b) Developing appropriate channels of communication with due respect for the various systems in place in different states, for timely exchange of information relevant to the detection of environmental law violations as well as pertaining to the judicial process.

3. Institutional framework

48. States can consider the strengthening of institutional frameworks and programmes to facilitate international cooperation and coordination in the following ways:

(a) Designation and establishment of channels of communication and information exchange among UNEP, the secretariats of multilateral environmental agreements, the World Customs Organization and relevant intergovernmental entities, research institutes and non-governmental organizations, and international law enforcement agencies such as the International Criminal Police Organization (Interpol) especially through its “Green Interpol” activities;

(b) Strengthening measures to facilitate information exchange, mutual legal assistance and joint investigations with other enforcement entities with the objective of strengthening and promoting greater consistency in laws and practices;

(c) Development of infrastructure needed to control borders and protect against illegal trade under multilateral environmental agreements, including tracking and information systems, customs codes and related arrangements, as well as measures that could help lead to identification of illegal shipments and prosecution of offenders;

(d) Development of technology and expertise to track suspect shipments, accompanied by information on specific production sources, the import and export of regulated chemicals and wastes, licensing systems, customs and enforcement data;

(e) Strengthening mechanisms to facilitate information exchange regarding verification of illegal shipments and coordinating procedures for storing, processing and returning or destroying confiscated illegal shipments, as well as development of confidential channels, subject to domestic laws, for communicating information regarding illegal shipments;

(f) Designation of appropriate national and international points of contact to be forwarded to the UNEP enforcement database;

(g) Facilitation of transborder communications between agencies, considering that States may designate responsibility on the same subject to different agencies, such as customs, police or wildlife officials;

(h) Establishment of regional and subregional programmes providing opportunities for sharing information and strengthening training for detecting and prosecuting environmental crimes;

(i) Allocation of adequate resources to support the effective enforcement and effective implementation of policies.

4. Capacity-building and strengthening

49. Developing countries, particularly the least developed countries, and countries with economies in transition, require the building and strengthening of capacities for enforcement. It is recognized that environmental enforcement may be affected by conditions of poverty and governance that need to be addressed

through appropriate programmes. The following measures can be considered for building and strengthening capacities for enforcement:

- (a) Coordinated technical and financial assistance to formulate effective laws and regulations and to develop and maintain institutions, programmes and action plans for enforcement, monitoring and evaluation of national laws implementing multilateral environmental agreements;
- (b) Development of specific guidelines with reference to particular agreements for law enforcement officers to conduct operations, investigations and inspections, and procedures for reporting and processing information nationally and internationally;
- (c) Formulation of programmes for coordinating compliance and enforcement actions including compliance promotion, with other States;
- (d) Use of regional and sub-regional centres and workshops to provide opportunities for sharing information and experiences and for cost-effective and long-term training programmes;
- (e) Participation in international meetings, courses and training programmes, as well as in regional and global networks to facilitate sharing information and access to implementation and training materials.
