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ENVIRONMENTAL COMPLIANCE AND ENFORCEMENT

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PRINCIPLES OF EFFECTIVE COMPLIANCE AND ENFORCEMENT

Each country faces a unique set of challenges and capacities to implement its environmental laws. However, there are fundamental elements in all countries that form the basis of effective environmental compliance and enforcement programs and of legal systems. These common principles, based on the collective knowledge and experience of the International Network for Environmental Compliance and Enforcement (INECE) and reflective of international good practice, may be used to improve national environmental compliance and enforcement programs. These principles are divided into five sections: (1) environmental results and shared responsibility, (2) goals and strategies, (3) good governance, rule of law and compliance, (4) structure and resources, and (5) continuous evaluation and improvement.

ENVIRONMENTAL RESULTS AND SHARED RESPONSIBILITY

- Firm Commitment to the Environment
- Environmental compliance and enforcement requires strong and consistent institutional and societal commitments to resolve specific public health and environmental challenges through effective implementation of environmental laws.
- Comprehensive Framework for Environmental Management
- Effective compliance and enforcement systems need to operate as part of an overall framework of the environmental regulatory cycle: recognition of certain environmental problems, selection of the management approach, development of the legal basis, implementation of mechanisms to assure compliance, assessment of results, and program evaluation.

COLLECTIVE EFFORT

Strengthening environmental compliance and enforcement requires collective efforts among institutions and individuals. Government officials must exercise public authority according to the standards of good governance, including providing sufficient resources and independence to compliance and enforcement programs. Legislators must create clearly written legislation that is sufficiently stringent to meet its environmental goals. The judiciary is responsible for upholding the rule of law and ensuring that laws are interpreted and applied fairly, efficiently, and effectively. The regulated community is responsible for complying with the letter and spirit of the law. Non-governmental organizations play a leading role in public education and assisting enforcement agencies. The media is responsible for raising awareness by presenting objective information and analysis. The international community - including donor's international organizations, and networks - is responsible for strengthening domestic efforts through capacity development and the promoting of conditions enabling more effective compliance and enforcement.

GOALS AND STRATEGIES

- Meaningful Targets
- Effective environmental compliance and enforcement programs have a clearly stated guiding vision and realistic and measurable goals that are consistent with the organization's mission. The Goals should be supported by targets that describe the results a program is expected to achieve in a given time period.
- Environmental compliance and enforcement programs should utilize a balance of strategies to assure compliance: education and assistance, compliance incentives; monitoring and inspections; and fair and differentiated non-compliance responses. The balance of Strategies should consider the social, cultural, economic, and political norms of the society, in addition to the society's broad environmental goals.

COMMUNICATION AND OUTREACH

Competent authorities should communicate these strategies to the regulated community, civil society, and other government agencies in a comprehensive, comprehensible, and transparent manner. Governments should create conditions for public participation and information exchange that will build capacity for improved environmental compliance.

GOOD GOVERNANCE, RULE OF LAW, COMPLIANCE

Good Governance

Effective environmental compliance and enforcement depend on good governance, which is characterized by institutions that are open, participatory, accountable, predictable, and transparent. Good governance requires consistent, visible, and transparent efforts against corruption through supporting a culture of integrity, including a no tolerance policy for corrupt practices.

The Rule of Law

The rule of law forms the basis of effective environmental compliance and enforcement. Broadly speaking, 'rule of law' refers to the presence of legal requirements that are transparent and fairly applied. The rule of law depends upon an independent judiciary that interprets and applies the law in impartial and transparent manner.

Non-Compliance Response

Effective environmental compliance and enforcement programs deter illegal conduct by creating negative consequences for violators of the law. Deterrence is strengthened by timely, predictable, and appropriate enforcement actions that cause potential violators to determine that the risk of detection and punishment outweighs the potential benefits of non-compliance. This is achieved through the implementation of penalties - including non-monetary penalties such as jail time - that exceed the economic benefit of non-compliance - making non-compliance ultimately costlier than compliance.

STRUCTURE AND RESOURCES

Policies and Procedures

Transparent and unambiguous policies and procedures that are based on the law should be adopted in order to define the roles of competent authorities, their structural units, and personnel; clarify jurisdictions of national and sub-national authorities, ensure coordination and sound decision-making, particularly where this process is likely to be flexible or discretionary, and ensure steady information flows.

Adequate Resources and Training

Competent authorities should have access to the physical, technical, and financial resources that are adequate to their mandate and scope of work, Management should ensure high levels of professionalism through proper remuneration and professional development opportunities for program staff.

CONTINUOUS EVALUATION AND IMPROVEMENT

Environmental Compliance and Enforcement Indicators

Program managers should identify, develop, and use performance measurement indicators to improve decision making and resource prioritization, evaluate program efficiency, and communicate how effectively the program responds to priority environmental problems. Creating a useful system of indicators may require a legal mandate for performance measurement, long-term commitment from senior management, and dedicated staff time for data collection and dissemination.

Program Evaluation

Competent authorities should review and evaluate compliance and enforcement programs both internally and externally on a periodic basis. Such reviews allow an organization to bring about overall improvements in their program and to redefine priorities to reflect successes, areas of under achievement, and shifts in goals. Outcomes of inspections and enforcement should be assessed to see whether the legal provisions and permit conditions were enforceable and practicable and whether other barriers to successful program implementation exist.

Representatives of the U.S. Environmental Protection Agency (USEPA), the Netherlands Ministry of Environment, Housing and Urban Development (VROM), and the Brazil Supreme Court (STJ). The INECE Secretariat provides technical, administrative, and communications support for Executive Planning Committee functions and helps the implement and INECE work program. Durwood Zaelke, President of the Institute for Governance and Sustainable Development, is the current Director of the INECE Secretariat.

INECE participants include inspectors, prosecutors, regulators, Parliamentarians, judges other governmental officials, and members of international and non-governmental organizations. INECE is an informal network and any environmental compliance and enforcement practitioners may join the network by registering through the INECE Web site. INECE participants support the mission and objectives of the network and may carry out these activities on an individual, organizational, bilateral, and/or multilateral basis as appropriate.

MAJOR PROJECTS AND ACTIVITIES

International Conference

INECE conferences bring together enforcement officials from both developed and developing countries all over the world to share experiences and make plans to take environmental compliance and enforcement efforts to the next level INECE has hosted eight international conferences since 1990.

- 8th International Conference, Cape Town, South Africa - April 2008
- 7th International Conference, Marrakesh Morocco, April 2005
- 6th International Conference, San Jose Costa Rica, April 2002
- 5th International Conference, Monterey California, USA, November, 1998
- 4th International Conference, Chiang Mai, Thailand, April 1996

- 3rd International Conference, Oaxaca, Mexico, April 1994
- 2nd International Conference, Budapest, Hungary, September 1992
- 1st International Enforcement Workshop, Utrecht, The Netherlands, May 1990

INECE expert working groups provide opportunities for participants to collaborate to respond to environmental compliance and enforcement challenges and to share knowledge gained with the broader network through workshops, conferences, publications, and email discussion groups. Major expert working groups and topical networks include.

- The Seaport Environmental Security Network
- The International Network for Environmental Compliance Training Professionals
- The INECE Expert Working Group on Compliance Aspects of Emissions Trading
- The INECE Expert Working Group on Environmental Compliance and Enforcement indicators.

CAPACITY BUILDING PROGRAMS FOR ENVIRONMENTAL COMPLIANCE AND ENFORCEMENT

INECE training resources developed to help individuals responsible for environmental protection in different countries, regions, and localities design and implement compliance strategies and enforcement programs include:

- The Principles of Environmental Enforcement.
- Conducting Environmental Inspections Training Manual.
- Performance Measurement Guidance for Compliance and Enforcement Practitioners.