

JUSTITIA ET PACE
INSTITUT DE DROIT INTERNATIONAL

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**Procedures for the Adoption and Implementation of Rules
in the Field of Environment**

(Eighth Commission, Rapporteur : Mr Felipe Paolillo)

(The English text is authoritative. The French text is a translation.)

The Institute of International Law,

Noting that during the last decades international environmental law has evolved into a vast *corpus juris* composed of a considerable number and variety of principles and rules with different degrees of legal value ;

Considering that the development of international environmental law has taken place in an uncoordinated manner, producing overlappings, inconsistencies and lacunae and that its implementation has been uneven and in several areas unsatisfactory ;

Convinced that the development and effective implementation of international environmental law are essential to solve the serious problems arising out of the degradation of the environment ;

Realizing that treaties and decisions adopted by international organizations appear to be the most practical instruments to promote the development of the international law in the field of the environment ;

Convinced that existing procedures for the adoption of international environmental rules and mechanisms to ensure their implementation require adjustments in order to make them more responsive to the seriousness of environmental problems,

Adopts this Resolution :

I
Adoption of Environmental Rules

Article 1

Multilateral environmental treaties and other international instruments setting forth general legal frameworks should provide for expeditious procedures for the adoption of supplementary rules, regulations and standards in separate instruments, and for their review and amendment, in order to ensure their rapid coming into force and continuous up-dating.

Article 2

In negotiating and adopting multilateral environmental treaties and decisions of international organizations, the widest participation of States, in particular those with specific interests or responsibilities in the matter being regulated, should be sought to enhance the prospects of their general acceptance and implementation.

Article 3

Technical and financial assistance, including assistance in building up appropriate institutional infrastructure and expertise in international environmental law, should be made available to developing countries to ensure their effective participation in environmental law-making processes.

Article 4

Multilateral environmental treaties and other international instruments prescribing the adoption of measures for the protection of the environment shall, on the basis of the differences in the financial and technological capabilities of States and their different contribution to the environmental problem, provide for economic incentives, technical assistance, transfer of technologies and differentiated treatment where appropriate.

Article 5

To achieve the widest possible acceptance of international environmental rules and ensure their effective implementation, all efforts should be made to reach consensus for their adoption before resorting to voting. However, efforts to reach consensus should not result in the significant weakening of the contents of the rules.

Article 6

States and international organizations should provide to interested non-governmental organizations opportunities to contribute effectively to the development and implementation of international environmental law through, *inter alia*, appropriate participation in the law-making process, provision of technical advice to States and international organizations, raising of public awareness of environmental problems and public support for regulation, and monitoring of compliance by States and non-State actors with environmental obligations.

Article 7

States and international organizations should also allow the scientific community, the industry and labour sectors and other non-State entities to participate, as appropriate, in the legal process of adopting environmental rules, and in their implementation and monitoring.

II Implementation of Environmental Rules

Article 8

Environmental protection regimes should include the duty by participating States to submit periodically, to the competent international organization, reports on the implementation of international environmental rules for their public review.

Article 9

Multilateral environmental treaties and decisions of international organizations establishing environmental obligations should provide for procedures to :

- a) adopt, review and amend, through expeditious procedures, rules, regulations and standards to implement such obligations ;
- b) review and assess reports submitted by States on implementation of such obligations ;
- c) supervise their implementation and compliance. Implementation and compliance mechanisms should include, *inter alia*, reporting, fact finding and inspection.

Article 10

International environmental organizations endowed with regulatory powers should provide for procedures to ensure that environmental rules adopted by them are not contrary to or incompatible with the legal framework governing the activities of such organizations.

Article 11

States that have voted in favour of, or have acquiesced in, the adoption of a non-binding instrument containing clear and precise rules on the protection of the environment should act in conformity with those rules.

Article 12

In order to prevent disputes and to facilitate compliance with environmental obligations, multilateral environmental treaties and decisions of international organizations establishing regimes for the protection of the environment should provide for informal, non-confrontational procedures, open to States and, when appropriate, to other entities or persons.

Article 13

In order to ensure the enforcement within domestic legal systems of international environmental obligations, States shall make available to any interested person, judicial and non-judicial procedures for the settlement of disputes arising from violations of such obligations.

Article 14

Multilateral environmental treaties and decisions of international organizations prescribing the enactment of domestic legislation or the adoption of other implementation measures by State Parties to the treaties or Member States of the international organizations, should establish time-limits within which States must take the prescribed action.

Article 15

States bound to enact domestic legislation or to adopt other measures to implement environmental obligations contained in a treaty to which they are parties or in a decision of an international organization to which they are members, shall adopt such measures within a reasonable period of time when non specific time-limit has been established in the treaty or in the decision of the international organization.

Article 16

When a State bound by a treaty or a decision of an international organization to enact domestic legislation or to adopt other measures to implement environmental obligations, has not done so within the established time-limit or, in case no time-limit has been established, within a reasonable period of time, the State should report to the conference of the contracting parties, to any other competent international authorities or to the other parties to the treaty or members of the international organization, the reasons why it has not taken the prescribed action.

Article 17

In order to encourage the participation of all interested entities and persons in the discussion of environmental issues, States should cooperate with interested non-governmental organizations in disseminating information as complete as possible on environmental problems and issues and on national and international rules relating to them.

Article 18

States shall make arrangements for appropriate authorities to be designated to deal with questions concerning the implementation of international environmental rules within their jurisdiction and to supervise compliance with them.

Article 19

States and environmental international organizations should give due publicity to implementation procedures, including publication and dissemination of reports submitted by States and reports of organs of international organizations on compliance by States with environmental obligations. Implementation activities of international environmental organizations should be open, as appropriate, to interested non-governmental organizations.

Article 20

International organizations with competence in environmental matters should keep governments, interested non-governmental organizations and public opinion in general permanently informed on their activities and programmes.

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(September 4, 1997)