



SACEP

ENVIRONMENTAL LEGISLATION

South Asia Co-operative Environment Programme

*Report Of The SACEP
Environmental Legislation
Workshop*

15 - 16 January 1987
New Delhi, India

SOUTH ASIA CO-OPERATIVE ENVIRONMENT PROGRAMME

(S A C E P)

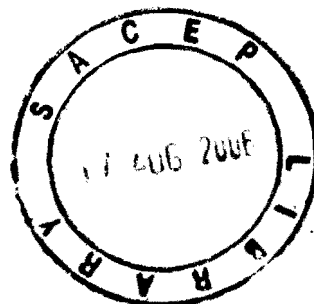
REPORT OF THE WORKSHOP ON
ENVIRONMENTAL LEGISLATION FOR
SACEP MEMBER COUNTRIES

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SOUTH ASIA CO-OPERATIVE ENVIRONMENT PROGRAMME,
ENVIRONMENTAL LEGISLATION WORKSHOP,
15 - 16 JANUARY 1987,
NEW DELHI, INDIA.

REPORT

1. INTRODUCTION

The Workshop on Environmental Legislation for SACEP Member Countries was held in New Delhi, India, on the 15th and 16th January 1987.

2. ATTENDANCE

This Workshop was attended by experts from the following Member Countries of SACEP viz: Afghanistan, Bhutan, India, Iran, Maldives and Sri Lanka. There was also representation from the United Nations Development Programme.

A list of participants is at Annex I.

3. OPENING

The Workshop was formally declared open by Mr M.J. Kazem, Director, South Asia Co-operative Environment Programme.

A copy of his address is at Annex II.

4. ELECTION OF OFFICE BEARERS

The representative from Sri Lanka Mr K.H.J. Wijayadasa, Secretary to the Prime Minister and Chairman, Central Environmental Authority was elected Chairman of this workshop.

The Representative from Afghanistan Dr Amir S. Hassanyar, Professor of Ecology, Faculty of Agriculture, Kabul University was elected Rapporteur.

5. ADOPTION OF AGENDA

The participants discussed and adopted the Agenda of the workshop. A copy of the Agenda is at Annex III.

6. OVERVIEW OF THE STATUS OF ENVIRONMENTAL LEGISLATION IN MEMBER COUNTRIES OF SACEP.

The Secretariat of the South Asia Co-operative Environment Programme, presented the Draft Overview prepared on the basis of the Country Reports on hand,

namely, Afghanistan, Bangladesh, India, Nepal and Sri Lanka. It was noted that the Country Reports of Bhutan, Iran and Maldives were not available at the time of drafting this Overview.

The Draft Overview consisted of a preamble, a general survey of existing Institutional framework for Environmental Legislation, a brief review of Environmental Legislation in general, Country Specific Recommendations and lastly General Recommendations.

The country experts were requested to study the Country specific recommendations and submit in writing to the SACEP Secretariat any amendments or additions deemed necessary.

It was decided to consider the general recommendations as stated in the overview after the presentation of the Country reports with a view to submitting a detailed list of general recommendations from this workshop to the Member Countries of SACEP for their consideration.

The revised Overview is at Annex IV.

7. PRESENTATION OF NATIONAL REPORTS

The following experts presented abstracts of their Country Reports.

Afghanistan	-	Dr Amir S. Hassanyar
Bhutan	-	Mr Sangey Thinlay
India	-	Ms Sudha Shrotria
Iran	-	Mr Amir Hosseini Hakimian
Maldives	-	Mr Mohamed Saeed
Sri Lanka	-	Mr K.H.J. Wijayadasa

8. GENERAL RECOMMENDATIONS OF THE WORKSHOP

The experts considered the general recommendations stated in the Overview and after a detailed discussion, agreed to submit the following recommendations to the member countries for their consideration and subsequent implementation.

- ✓ a) The countries that do not have a lead agency for policy formulation and co-ordination in the field of environment should seriously consider the establishment of such an agency as a matter of priority.
- ✓ b) Assuming that the above is established, a cell should be identified, whose function shall be the regular review, evaluation and when necessary, updating, strengthening and the formulation of new legislation.
- ✓ c) The formulation and adoption of a National Environmental Policy.
- d) The enactment of a National Environmental Law which will provide umbrella cover to all existing legislation.
- ✓ e) Review and re-formulation of existing legislations to cater to the requirements of Resource Management.
- ✓ f) Strengthening of the institutional infrastructure for the effective implementation of Environmental Programmes and the enforcement of Environmental Legislation.
- ✓ g) An up to date compilation of Environmental Laws of the countries of the Region should be maintained. The SACEP Secretariat could be designated as a Clearing House for this purpose.
- h) All major departments, agencies and private sector bodies which are engaged in production activities should provide for the formulation of environmental rules and regulations as needed in their areas of concern. They should also be the prime movers in initiating and recommending ideas for supplementary legislation as required.
- i) The laying down of Environmental Quality Standards and the introduction of a monitoring mechanism for Environmental Monitoring are essential pre-requisites for the protection and management of the environment.
- j) Environmental Impact Assessment (EIA) should be made mandatory for all development projects with a view to ensuring that adequate environmental safe guards are introduced from the pre-feasibility stage to the stages of commissioning and operation of all projects, both in the public and private sector.

The experts studied this document and decided to submit this as a proposed guideline from this workshop to the respective member governments. The SACEP Secretariat was commended on the high quality of this document.

The proposed guidelines are given below:

GUIDELINES FOR FORMULATION, REVIEW AND
UPDATING OF NATIONAL ENVIRONMENTAL
LEGISLATION

A. The "Framework" for Environmental Legislation

1. COVERAGE All Environmental Resources
(Natural & Human, Renewable/
Non-Renewable; Land-water-air)
2. TARGETS
 - i) Use (For Social, cultural, economic development)
 - ii) Maintenance (alongside use of the resources)
 - iii) Restoration (of degraded/threatened resources)
 - iv) Enhancement (of "resource base" especially renewable & re-usable resources)
3. SCOPE
 - i) Range of Uses
 - a) Productionist & Protectionist
 - b) State of Art & Knowledge at given time
 - c) Social & Political Policies
 - d) Adjustment over time especially new technologies
 - e) Public Awareness and Education
 - ii) Standards
 - a) "Thresholds" (Technical, economic, social)
 - b) Goals (Quality coverage)
 - iii) Monitoring
 - a) Margins (random, total etc.)
 - b) Instruments (costs, complexity)
 - c) Internal/External

iv) Performance/Enforcement

- a) Institutional Arrangements
- b) Corrective as against punitive
- c) Responsible Authorities

B. The "AREAS"

1. Mountain Eco-systems

2. Range - lands

3. Pastures & Grasslands

4. Croplands

i) Food Crops

ii) Industrial Crops

5. Forests

i) Natural

ii) Commercial (Plantations, crop residues)

iii) Others (Village/Social Forestry etc)

iv) Natural Habitats
(Genetic Banks, Wildlife etc)

6. Inland Waters

i) Rivers

- ii) Lakes
- iii) Catchments

7. Coastal Waters

- i) Coastal Areas
- ii) Off Shore
- iii) Lagoons
- iv) Mangroves

8. Seas

- i) Island Eco-systems
- ii) Corals
- iii) Oceans

9. Air

- i) Atmosphere
- ii) Ozone

10. Industrial Settlements

- i) Macro (Areas & zones etc.)
- ii) Micro (Individual Units)
- iii) Technologies

11. Human Settlements

- i) Habitat
- ii) Infra structures
- iii) Wastes

12. Trade

C. INTERNATIONAL, REGIONAL AND SUB REGIONAL
CONVENTIONS

1. Participation (Acceptances, Ratification
& Observance)

2. Sharing of Local Experiences
(For improvements, new corrections
etc.)

3. Involvement in International Fora
SACEP, etc)

10. PROPOSALS FOR INSTITUTIONAL
AND TRAINING FACILITIES

After detailed discussion, the following recommendations emerged from the Workshop.

- a) The greater emphasis for "Environmental Training" for legal experts.
- b) That information, education and training on new and emerging disciplines such as Environmental Impact Assessment, Environmental Quality Standards, Environmental Management etc., be imparted in the form of in-service programmes for officials at different levels especially in respect of law enforcement such as by seminars, workshops etc.
- c) The integration of environmental parameters into the Curricula of courses conducted by Higher Level Institutions including the Universities so that the Officials are adequately equipped to deal with environmental problems.
- d) The SACEP Focal Point to consider offering specialised training facilities in the field of Environmental Legislation and Institutions.

11. CONSIDERATION AND ADOPTION OF THE REPORT

The workshop considered and adopted this report on the 16th of January 1987.

12. CLOSING OF THE MEETING

Mr M.J. Kazem, Director SACEP thanked the Government of India for hosting this workshop, the participants for their valuable contribution and lastly the UNDP for funding this project.

Dr Amir S. Hassanyar speaking on behalf of the participants thanked SACEP Secretariat for the excellent arrangements made in respect of this workshop.

Ms Deloraine Brohier speaking on behalf of UNDP stated that UNDP was very pleased to see the completion of this project and also the success of this workshop.

The Chairman Mr K.H.J. Wijayadasa in his concluding remarks said that this workshop could be considered as the starting point for the creation of greater awareness amongst member countries of SACEP as regards the importance of effective environmental legislation.

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LIST OF PARTICIPANTSAFGHANISTAN

- DR AMIR S. HASSANYAR - Professor of Ecology,
Faculty of Agriculture,
Kabul University.
- MR T.M. YARMAND - President Norms and
Standards Department,
State Planning Committee
Kabul.

BHUTAN

- MR SANGEY THINLAY - Joint Director of
Forests,
Thimphu.

INDIA

- MS SUDHA SHROTRIA - Under-Secretary
Ministry of Environment
& Forests.
New Delhi.

IRAN

- MR AMIR HOSSEIN HAKIMIAN - Director, Environmental
Impact Assessment
Bureau,
Teheran.
- MR MOHAMAD SAIED HOSSIENI
SHIE. - Head, International
Affairs,
Department of
Environment.
Teheran.

MALDIVES

- MR MOHAMED SAEED - Under Secretary,
Ministry of Planning
and Development.
Male.

SRI LANKA

MR K.H.J. WIJAYADASA

- Secretary to the
Prime Minister
and Chairman,
Central Environmental
Authority.

U.N.D.P.

MS JENNIFER HASLETT

- Assistant Resident
Representative,
UNDP.
New Delhi.

MS DELORAINÉ BROHIER

- Programme Officer,
UNDP,
Colombo.

SACEP

MR M. JAFER KAZEM

- Director.

MR PRASANTHA NIMAL
DIAS ABEYEGUNAWARDENE

- Consultant.

OPENING ADDRESS BY MR M.J. KAZEM,
DIRECTOR SACEP.

DISTINGUISHED DELEGATES; LADIES AND GENTLEMEN,

It gives me great pleasure to welcome you on behalf of the South Asia Co-operative Environment Programme, SACEP, at this important Workshop. I would like to express my thanks and appreciation to our Indian Focal Point for hosting this workshop and for the excellent arrangements. SACEP is pleased to see that the workshop is being held after some delay and it also thanks UNDP for the overall arrangements through its Resident Representatives in different member countries for both preparation of reports and funding this workshop.

Environmental Legislation is one of the most important tools for effective Environmental Management, and its significance and usefulness, may even be equal to those of Environmental Management itself. In the analysis of decision making in Environmental Management, two processes are always found to be at work - the consideration of values or subjective judgements, such as political and social considerations, and the considerations of purely objective judgement, or pure scientific data such as facts of ecology or economics. Thus when environmental decisions are taken and policies established to resolve the dilemma, they ought to be transformed into laws, regulations, standards, or guidelines and procedures to enable states and individuals to apply and observe them. This transformation and their enforcement through the various legal systems of the World are among the correct role of Environmental Legislation.

The effective performance of these roles reflects the importance of Environmental Legislation as a major tool for Environmental Management. The translation into law of scientific data and environmental policies has not been smooth or easy. Even when such translation has been realised the resulting laws have quite often, been unsatisfactory as a genuine solution to the problems concerned, and also in many cases they have not been vigorously applied.

Distinguished Delegates. The 1972 Stockholm Conference on Human Environment marked a Watershed in the development of policies and legislations for Environmental protection and conservation. During the course of the last decade, many countries all over the world have enacted new laws and constituted institutions for dealing with environmental problems. Most countries in South Asia have laws and legislations dealing with environment, but in most cases, the laws are outdated and are incapable of tackling the complex multi-disciplinary environmental problems that have come to afflict man. Though in some instances the existing laws have been updated, they appear to be only revisions of earlier ones, with limited changes. Existing laws relating to the management of environmental resources do

not clearly state the social objectives they aim to achieve. Some of the laws in force, particularly with regard to land use and management of environmental resources, appear at times to be accomplishing mutually defeating social objectives, and where such resources are shared by more than one state, legislation enacted in one state may have adverse environmental implications for a neighbouring one. Enactment of environmental laws will not by itself be sufficient. Their effective application has to be fully ensured, making it necessary that all concerned personnel involved in the formulation and implementation of the laws need to be oriented in the intricacies of environmental legislation. Bearing all these facts in mind SACEP programmed its project on Environmental Legislation for its member countries and obtained the assistance of UNDP for its implementation. The development objective of this project is to help the participating countries to up-date, and keep up-dated thereafter, on a continuous basis, laws and regulations necessary for sound environmental management and to train national legal draftsmen to draft effective environmental legislation.

We are happy to note that in accordance with the Work Plan of the project, the six country reports, namely from Afghanistan, Bangladesh, India, Iran, Nepal and Sri Lanka have been prepared, and will be considered at this meeting. Certain necessary information on the present status of Environmental Legislation in Bhutan, and Maldives, will also be available through their distinguished delegations. It is my opinion that this Workshop has provided an ideal forum for exchange of experiences and dissemination of information on this subject matter. I hope this opportunity will be fully utilised, and fruitful conclusions and recommendations would emerge from your discussions and deliberations. I would like to once again thank you all for participating in this Workshop and wish you every success.

Thank you.

SOUTH ASIA CO-OPERATIVE ENVIRONMENT PROGRAMME
ENVIRONMENTAL LEGISLATION WORKSHOP
NEW DELHI
INDIA
15 - 16 JANUARY 1987

AGENDA

- 1) Opening of Meeting.
- 2) Election of Office Bearers.
 - Chairman & Rapporteur
- 3) Adoption of Agenda.
- 4) Overview of the Status of Environmental Legislation in SACEP Member Countries based on reports on hand.
- 5) Presentation of National Reports.
 - a) Afghanistan
 - b) Bangladesh
 - c) Bhutan
 - d) India
 - e) Iran
 - f) Maldives
 - g) Nepal
 - h) Sri Lanka
- 6) Proposals for the direction of future Environmental Legislation.
 - a) National
 - b) International/Regional
- 7) Proposals for Institutional and Training Facilities.
- 8) Adoption of the Report.
- 9) Closing of Meeting.

SOUTH ASIA CO-OPERATIVE
ENVIRONMENT PROGRAMME

WORKSHOP ON ENVIRONMENTAL
LEGISLATION
NEW DELHI, INDIA.
15 - 16 JANUARY 1987

OVERVIEW OF THE STATUS
OF ENVIRONMENTAL
LEGISLATION IN THE
PARTICIPATING SACEP
COUNTRIES.*

* AFGHANISTAN, BANGLADESH, INDIA, NEPAL, SRI LANKA.

OVERVIEW OF THE STATUS OF ENVIRONMENTAL
LEGISLATION IN THE PARTICIPATING SACEP
COUNTRIES.

PREAMBLE

Most countries of the South Asian sub region have had from a long period of time, in some cases, even dating back to centuries ago, legislation dealing with the environment but in most areas, the laws are obsolete and are incapable of tackling the complex multi disciplinary environmental problems that have come to afflict man. The general tendency has been to prevent and penalise deterioration. Positive environmental protection and improvements are rarely sought to be achieved through legislation.

The Stockholm Conference on Human Environment marked a watershed in the development of policies and legislations for environmental protection. As a result of which, many countries all over the world have enacted new laws and constituted institutions for dealing with environmental problems. The need for reviewing and updating existing laws have also been done. However the enactment of new laws is not by itself sufficient. Their effective application has to be ensured and the concerned mechanism for this function must be adequately equipped.

This overview gives a brief account of the existing institutional framework, a brief history of environmental legislation in each country and the urgent country specific needs both in respect of institutional framework and legislative requirements.

1) SURVEY OF EXISTING INSTITUTIONAL
FRAMEWORK FOR ENVIRONMENTAL
LEGISLATION IN GENERAL

1. i) AFGHANISTAN

At present there is no central authority solely responsible for the protection of environment. However, institutional machineries at national level for the protection of environment have been established within a framework of a number of government departments. These institutions do not have any statutory guidelines but keep a watch so to speak over environmental protection as a matter of policy.

Environmental legislation is one of the youngest branches of national laws and is still in its formative stages. There is presently no independent national environmental protection law nor a constitutional provision in the field of Environmental Impact Assessment, environmental pollution control and degradation of terrestrial and aquatic ecosystems in Afghanistan. However, a few laws and regulations on specific aspects of environmental protection have formally been published in the official gazette and several others are drafted and awaits approval.

The most important development in the area of Environmental Legislation has been the drafting of a law entitled "Nature Conservation Law" in 1986. This law which contains 8 chapters and 62 Articles has a favourable impact on Environmental Conservation.

1. ii) BANGLADESH

The protection and management of the environment being multi disciplinary transcends various sectors of social and economic activities. Accordingly, various ministries, departments and agencies of the government in performing their respective functions bear the responsibilities of utilization, conservation and development of natural resources on the one hand and the protection of the environment through their regulatory, administrative and development functions on the other.

However, due to conflict of interests as a result of which environmental objectives are lost sight of, necessitated the creation of an Independent agency of the government for overlooking the environmental situation. Thus in 1977, the Department of Environmental Pollution Control was established and comes under the purview of the Local Government Division of the Ministry of Local Government and Rural Development.

Environment laws in Bangladesh may be broadly divided into 3 groups. Those concerned with the conservation of Natural Resources, Protection of Environmental Health and the control of environmental pollution. The above categorisation is made on the basis of broad objectives of environmental laws in existence in Bangladesh and are not mutually exclusive for obvious reasons.

iii) INDIA

India is one of the few countries that has a constitutional commitment to environmental protection and improvement. Although some provisions in the constitution, in the area of improvement in the quality of life existed ever since its proclamation in 1950, a direct reference to environmental protection was introduced with the constitution (42nd Amendment) Act 1976.

Environment Management, a term encompassing environmental planning, protection, monitoring assessment, research, education, conservation and sustainable use of resources, has been accepted as a major guiding factor for national development in India.

From a specific reference to environmental protection in the fourth five year plan document, the increase in the concern was reflected in terms of a separate plan chapter on environment in the sixth plan. Following the recommendations of a High Level committee headed by the then Deputy Chairman of the Planning Commission, a fully fledged Department of Environment (D O En) was constituted in November 1980, which has since been elevated to the status of a Ministry.

The Ministry plays a key role in the formulation of environmental policies, laws and standards. Over 400 central and state legislations have relevance to environmental protection. Most of them deal with the substantive issues of resource survey, exploration and exploitation and any reference to environmental protection is only incidental. As such they have neither been used for environmental protection, nor are they capable of dealing with emerging scientific and technical trends and complexities of environmental protection. The laws which have been enacted after 1970 have provided a sharper focus to issues of environmental concern.

iv) NEPAL

Environmental awareness vis a vis legislation is a recent phenomena in Nepal. The constitution of Nepal has not explicitly mentioned the need to protect, conserve and preserve the environment.

As such, there is no consolidated legislation on environment.

However, since recent times, there has been a marked awareness in Nepal concerning environment. Environmental provisions, explicitly or implicitly have been made in varied statutes, rules, orders and notices in Nepal. A survey of the country's environmental legislation reveals that state's primary concern as of present times is conservation of some related aspects of ecosystems, such as forests, wild life and soil and scant attention is being paid to different forms of environmental pollution which is increasing alarmingly in urban areas.

v) SRI LANKA

Like its immediate neighbour India, the need for environmental protection and management is duly recognized and stressed in the constitution of Sri Lanka and the National Law on environment came into operation in 1981 and also created the Central Environmental Authority (C E A) as the policy making and co-ordinating agency for environmental protection and management and filled a wide and long standing gap created by the absence of an institutional framework to co-ordinate environmental policy making and programming in Sri Lanka.

Sri Lanka already had a number of laws, acts and regulations which are in one way or another related to the environment. Some even date back to the last century. They cover a wide area and a variety of situations but these are scattered and administered by a variety of agencies at different levels of authority without overall co-ordination and policy direction. The C.E.A. therefore serves as a policy making and co-ordinating body for environmental protection and management.

2. REVIEW OF ENVIRONMENTAL LEGISLATION

The degree to which environmental concerns have been nationally recognised is reflected in its legislation. Most countries have a number of laws, acts, regulations or policy directives which, in one way or the other are related to environmental concerns. Some laws date back to many decades ago whilst the others are of more recent origin. If one studies the trends or the pattern of country's legislation one could clearly see the marked degree of clarity in the law, ie the laws are more specific and the powers that the law encompasses is wide and leaves no room for loopholes. To put it in a nutshell, it illustrates the varied development of environmental awareness among policy makers and legislators. These laws cover a wide area and a

variety of situations ranging from management of resources and preservation of national heritage to the prevention of pollution and the improvement of health.

Some countries have elaborate legislation on environmental subjects and some go to the extent of even establishing vigorous norms by which punitive action could be taken for the infringement of such laws. However, the extent and details of legislations are usually in keeping with their priorities on environmental management as a whole as well as on specific subject areas.

Although rigorous and elaborate legislation may be in existence, the most important factor is the effective implementation and enforcement. In most countries, this is a major stumbling block and it may be due to a variety of reasons ranging from lack of personnel, poor laws, inadequate funds, punishment not sufficient to act as a deterrent and sometimes the lack of a singleness of purpose and mixture of priorities.

In most countries, the parameters of what are to be considered environmental law are still evolving. Thus, all laws and regulations leading to the protection and enhancement of the environment have been included within the terminology of Environmental Legislation. This is however, not the case in most of the laws drafted within the last year or two.

The legal aspects of environmental protection and management in all countries take several forms. Methodology adopted have been mainly preventive and regulatory and in a few instances punitive. Enforcement has been administratively as well as judicially.

In the review and reformulation of environmental legislation, it is of paramount importance that we recognize the fundamental right of all human beings to an environment adequate for their health and well being. Such legislation should also take note of the responsibilities of the people and the government to achieve sustainable development.

It should be borne in mind that countries such as India, Pakistan, Sri Lanka etc were under colonial regime and most of these laws were concerned during the period where administration was geared and oriented towards exploitation of natural resources, revenue collection and the maintenance of law and order. These laws were not enacted with conservation and resource management in mind. Even after the concept of effective Resource Management came into prominence and assumed importance, in the making of subsequent amendments, conservation and development, environment and development and sustainable growth parameters have not been given their due consideration. Therefore,

there is a very great need to have an entirely fresh approach to all these laws with a view to introducing a total package of legal reforms covering the entire gamut of legislation dealing with environment.

3. COUNTRY SPECIFIC RECOMMENDATIONS

3. i) AFGHANISTAN

- a) Establishment of a Department of Environment within the framework of the State Planning Committee with general jurisdiction for environmental protection and with broad powers.
- b) Drafting of a National Environment Protection Law. This being complex and since Afghanistan lacks trained and experienced personnel assistance will be needed from various UN agencies in the drafting of sound environment legislation.
- c) The need to strengthen the existing legislation in order that it will be preventive and not curative.
- d) Introduction of specific courses on Environmental Law in the University of Kabul.
- e) The need to introduce the concept of Environmental Impact Assessment (EIA) to all developmental projects with a view to making it mandatory.
- f) The need for exchange of information as regards to environmental publications by way of newsletters.
- g) The need to determine Environmental Quality standards.

3.

ii) BANGLADESH

- a) General review of the existing legislation pertaining to environmental matters so as to make them effective, specific the drafting of laws in order to fill the gaps.
- b) Environmental objectives should be borne in mind in the development plans of the country.
- c) The drafting of National Environmental Policy.
- d) The strengthening of the Department of Environmental Pollution Control in order that it is reorganised on a more functional basis.

3.

iii) INDIA

- a) Adoption of a National Environmental Policy and all existing and future legislations should be adopted to this national policy.

- b) Comprehensive review should be undertaken periodically so as to examine the weaknesses in the existing legislations and to suggest suitable amendments.
- c) The need for a strong machinery both at central government and state level to oversee the implementation of the various legislation for environment.
- d) Proper co-ordination between various agencies of the Government in order to ensure the implementation of these legislations effectively.
- e) The Implementing agency to be adequately funded and provided with suitable infrastructural facilities.

3.

iv) NEPAL

- a) The creation of a separate Ministry of Environment and along with it the formation of a distinct and effective enforcing or implementing agency.
- b) To legislate adequate environmental law and enact consolidated legislation on environment law.
- c) Initiation of an indepth study and research on the state of environment in Nepal.
- d) Inclusion in the University curriculum the studies of the principles and practice of Environment Law.

3.

v) SRI LANKA

- a) Embodiment of certain general principles on National Resources Management as stated in the report to be embodied in legislation at the earliest opportunity.
- b) Review and reformulation of existing legislation to cater to the requirements of good resource management.
- c) Desirable legislative reforms to overcome some of the serious shortcomings and deficiencies in the existing legislation and suggestions for improvements as stated in the report.
- d) The strengthening of the institutional and administrative infrastructure for effective implementation of Environmental Programme and enforcement of Environmental Legislation.
- e) Reviewing and restructuring of the assignment of subjects and functions of the different ministries where necessary, in keeping with the requirements of national resource utilization and management.
- f) Enhancement of the punitive measures for offences against

the Environment so that it will act as a deterrent in the future.

- g) Strengthening of the Central Environmental Authority of Sri Lanka as per recommendations in the country report.

4. GENERAL RECOMMENDATIONS

- a) The countries that do not have a lead agency for policy formulation and co-ordination in the field of environment should seriously consider the establishment of such an agency as a matter of priority.
- b) Assuming that the above is established, a cell should be identified, whose function shall be the regular review, evaluation and when necessary, updating strengthening and the formulation of new legislation.
- c) The formulation and adoption of a National Environmental Policy.
- d) The enactment of a National Environmental Law which will provide umbrella cover to all existing legislation.
- e) Review and reformulation of existing legislations to cater to the requirements of Resource Management.
- f) Strengthening of the institutional infrastructure for the effective implementation of Environmental Programmes, and the enforcement of Environmental Legislation.
- g) An up to date compilation of environmental laws of the countries of the Region should be maintained. The SACEP Secretariat could be designated as a Clearing House for this purpose.
- h) All major departments, agencies and private sector bodies which are engaged in production activities should provide for the formulation of environmental rules and regulations as needed in their areas of concern. They should also be the prime movers in initiating and recommending ideas for supplementary legislation as required.
- i) The laying down of Environmental Quality Standards and the introduction of a monitoring mechanism for environmental monitoring are an essential prerequisites for the protection and management of the environment.
- j) Environmental Impact Assessment (EIA) should be made mandatory for all development projects with a view to ensuring that adequate environmental safe guards are introduced from the prefeasibility stage to the stages of commissioning and operation of all projects, both in the public and private sector.

- k) The countries should review the various International and Regional Conventions, particularly those referring to the Regional Programmes concerned with the SACEP member countries and should consider their early ratification, if it has not already been done so.
- l) Both for National Legislation and International/Regional Conventions, the lead agencies of the member countries must assume a special overview responsibility concerning the adequacy of legislation, their shortcomings, their application and future lines of development.
- m) The negotiation and adoption of Regional Conventions in areas of environmental concern.
- n) Certain major programme areas within countries would benefit greatly by the availability of model legislation culled from the experience of other countries of the Region and elsewhere. The SACEP Secretariat should be the intermediary for the transmission of this information to its Focal Points in this subject area.
- o) Technical assistance and advice on the drafting of National Legislation for the effective implementation of Regional Conventions and their Protocols and other International Agreements should be provided upon request. This activity to be co-ordinated by the SACEP Secretariat.
- p) Formulation of a set of draft guidelines on Environmental Legislation by SACEP in Major areas of Environmental Management.
- q) Reviewing and restructuring of the assignment of subjects and functions of the different Ministries where necessary in keeping with the requirements of resource utilisation and management for development through conservation.
- r) The introduction of specific courses on Environmental Law in the curricula in the Universities and Institutes of Higher Learning.