

# The Bali Guidelines for Development of National Legislation on Access to Information, Public Participation and Access to Justice in Environmental matters

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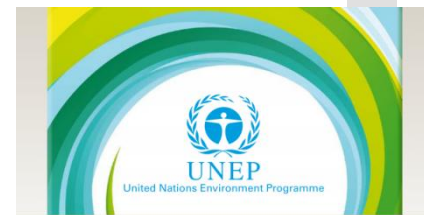
First Meeting of Focal points appointed by Governments of the Signatory Countries of the Declaration on the Implementation of Principle 10, Santiago de Chile, November 6-7

# Content

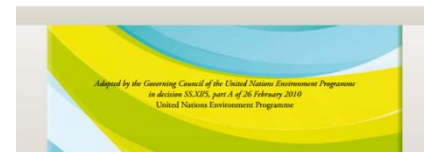
- The Guidelines
- Experiences with National Implementation
- Challenges
- National legislation vs. a regional instrument
- The UNEP/UNITAR Bali Guideline Project

# The Guidelines

- Purpose: To provide general guidance, upon request by States, (mainly developing countries), on promoting implementation of their commitments to Principle 10 within the framework of their national legislation and processes.
- Developed with input from civil society
- Adopted by UNEP's Governing Council in 2010
- “Commentary” to give scenarios where the guidelines can apply



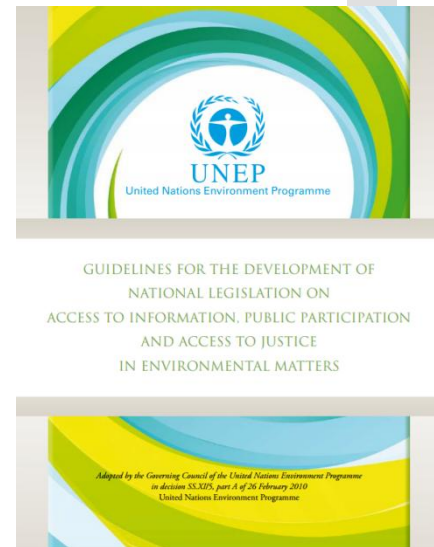
GUIDELINES FOR THE DEVELOPMENT OF  
NATIONAL LEGISLATION ON  
ACCESS TO INFORMATION, PUBLIC PARTICIPATION  
AND ACCESS TO JUSTICE  
IN ENVIRONMENTAL MATTERS



*Adopted by the Governing Council of the United Nations Environment Programme  
in decision 55/XII, part A of 26 February 2010  
United Nations Environment Programme*

# The Bali Guidelines II

- Governments are invited to take the guidelines into consideration in the development or amendment of national legislation.
- The guidelines seek to assist such countries in :
  - filling possible gaps in their respective legal norms and regulations as relevant and appropriate;
  - to facilitate broad access to information, public participation and access to justice in environmental matters.



# Main elements of the Guidelines

- **Access to information (AI)**

- Making information available and accessible to any person in an affordable, effective and timely manner without proving a legal or other interest.
- Type of environmental information to be made available (environmental quality, environmental impacts on health and factors that influence them. Legislation, policy and advise on how to obtain information).

- **Public Participation (PP)**

- Opportunities for early and effective PP in decision-making; members of the public should be informed about their opportunities to participate in decision-making processes at an early stage .
- PP to be sought in a transparent and consultative manner, providing adequate opportunities for members of the public to express their views.

# Main elements of the Guidelines II

- **Access to Justice (AJ)**
  - A person who considers her/his request for information or her/his right for participation has been unreasonably refused, has access to a review procedure before a court of law or other independent and impartial body to challenge such a decision, act or omission by the public authority in question.



Where existing legislation or practice provides for broader access to information, more extensive public participation or wider access to justice in environmental matters than the Bali guidelines should not be perceived as recommendations to amend national legislation or practice.

# Experience with National Implementation of the Bali Guidelines

- Since 2010, some progress in applying the Bali Guidelines at national level, no comprehensive overview available (freedom of information acts; environmental legislation that ensures public participation; EIA; enhanced court access, environmental remedies and jurisprudence; better institutions)
- Progress in LAC, Kenya, Uganda, South Africa, Nigeria (in particular AI), China

# Experience with National Implementation of the Bali Guidelines II

- UNITAR Global Programme to strengthen national implementation of Principle 10, applying the Bali Guidelines (Costa Rica, Dominican Republic, El Salvador, Honduras, Nicaragua, and Panama, Botswana, Democratic Republic of Congo, and Mali).

**The potential of the Bali Guidelines to serve as a tool to assist countries in developing national Principle 10 legislation has not been fully used.**



# Challenges

- Developing countries have different capacities to implement the guidelines and Rio Principle 10;
- Some lack adequate laws;
- Have weak institutions and participatory processes;
- Lack of information (technology) & informed citizenry to participate in decision-making;
- Lack of experts to represent the public;
- Lack of adequate, accessible, affordable court facilities and processes.



# National Legislation vs. a regional instrument

- A regional P 10 instrument could support and enhance the development and implementation of national Principle 10 related legislation e.g. by setting minimum standards
- The Bali Guidelines can assist countries in developing national legislation thus fulfilling their obligations under a regional instrument
- *Aarhus Convention*: instrumental in developing national legislation and other instruments for the national level



JUSTICE

AARHUS CONVENTION  
for our environment



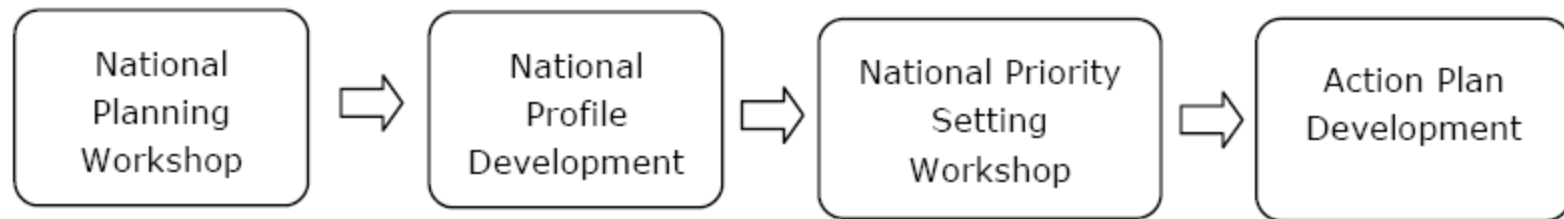
# The UNEP/UNITAR Bali Guideline Project

- Objective: Enhance the Capacity of Governments, Major Groups and other stakeholders in developing countries and in countries with Economies in Transition to implement Principle 10 and the Bali Guidelines
- Preparation of Bali Guideline Implementation Guide and Training Material
- Regional Workshops and legal practitioners training courses:
  - 8 regional workshops: North Africa/Middle East, Sub-Saharan Africa (2), South Asia, LAC (2), Asia Pacific (2)
- National Projects in 10 countries (Phase 1):
  - Development of national P 10 profiles and action plans
  - In countries that commit themselves to develop relevant national legislation

# Lessons Learned from National Principle 10 Capacity Development Projects in Central America

- Significant interest by Government in CA region to prepare a Principle 10 National Profile and Action Plan (6 country projects)
- Reveals that Principle 10 implementation needs capacity in civil society and Government (technical, legal, etc.)
- Civil society actively participated in Government coordinated processes (some 400 stakeholders in 6 countries)
- Processes created opportunity for Governments to cooperate with civil society to prepare situation analysis and set priorities
- Bali Guidelines helpful in creating benchmarks for national capacity development (not available at the time)
- UNITAR currently revising methodology within framework of UNEP/UNITAR collaboration (input from countries welcome)

# National Principle 10 Capacity Development Process



**Government and stakeholder participation throughout the project:**  
various government ministries, industry associations, public interest organizations  
(e.g. NGOs and indigenous groups), academia and unions, etc.

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# Contacts and information

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## **Bali Guidelines:**

[http://www.unep.org/civil-society/Portals/59/Documents/Resources/GUIDELINES TO ACCESS TO ENV INFO 2.pdf](http://www.unep.org/civil-society/Portals/59/Documents/Resources/GUIDELINES_TO_ACCESS_TO_ENV_INFO_2.pdf)

## **Commentaries to Guidelines:**

<http://www.unep.org/civil-society/Portals/59/Documents/Resources/Commentary-to-the-guidelines-for-the-development-of-national-legislation.pdf>

Thank you  
for your attention

[www.unep.org/civil-society](http://www.unep.org/civil-society)

