

# EAP Task Force

## *Fifth Annual Meeting of the NIS Environmental Compliance and Enforcement Network*

16-18 October, 2003, Kiev, Ukraine

NISECEN(2003)2

### **DRAFT PROGRAMME OF WORK OF THE NISECEN FOR THE PERIOD OF 2003-2006**

#### ***Short description :***

*This document presents the main elements of the proposed work programme of the NISECEN for the period 2003-2006. The activities are implemented within the framework of the EAP Task Force and contribute to the implementation of the EECCA Environment Strategy adopted at the Ministerial meeting in Kiev (May 2003).*

# **Draft Work Programme 2003-2006 of the NISECEN**

## **1. Introduction**

This document presents background information and the main elements of the proposed work programme of the NISECEN for the period 2003-2006. It has been developed on the basis of the proposals presented and discussed among the NISECEN Members at the fourth NISECEN meeting in October 2002 in Almaty and subsequently at the EAP Task Force meeting in February 2003 in Tbilisi.

The proposed activities will be implemented within the framework of the EAP Task Force and will contribute to the Implementation of the EECCA Environment Strategy adopted at the Ministerial Meeting in Kiev (May 2003). The NISECEN Members will be invited to discuss and approve the draft Work Programme at their fifth annual meeting on 16-18<sup>th</sup> October in Kiev. The final Work Programme will be submitted to the EAP Task Force for final endorsement.

## **2. Activities in 2001-2003**

Exchange of experience, know-how transfer and capacity building for strengthening enforcement and compliance efforts in Eastern Europe, Caucasus and Central Asia have been the key features of the work programme of the NIS Environmental Compliance and Enforcement Network (NISECEN) in the period 2001-2003. The NISECEN has been operating within the EAP Task Force Programme on Environmental Policies.

The discussions within the NISECEN covered a wide array of issues, such as horizontal and vertical institutional frameworks and responsibilities for enforcement, enforcement and compliance promotion instruments, the role of the public and the regulated community, and international co-operation. The dialogue, which has been conducted in plenary and expert meetings, has been supported by the development of best practices, guidance and reference documents. In particular, the Guiding Principles for Reform of Environmental Authorities in Transition Economies of EECCA have been developed to provide a framework and direction for reform and to raise political and public support for strengthened enforcement and compliance. A number of country specific activities, including support for reform of specific elements of enforcement systems and capacity building, have also been carried out in co-operation with EECCA enforcement agencies and donors.

In the same period, a number of activities on reforming policy instruments has been carried out under the Environmental Policies Programme of the EAP Task Force. These included reviews and analyses of environmental standards, environmental permitting systems and economic instruments for environmental policies. As a result an innovative approach has been developed to support policy makers in EECCA to increase the effectiveness of environmental policies by applying mixes (packages) of policy instruments. Subsequently, demonstration projects in EECCA countries have been implemented using this approach to reform instruments in a coherent way. In addition, responding to requests from EECCA countries, analysis was carried out of how environmental policy approaches could be reformed using selected EU environmental directives as a reference.

The main outputs of the 2001-2003 EAP Task Force work programme on environmental policies are presented in Box 1.

**Box 1: Key Products of the EAP Task Force Environmental Policy Programme**

**1. Reports on Environmental Policy Instruments**

*Developing Effective Packages of Environmental Policy Instruments* – the report analyses the shortcomings of existing policy instruments and suggests how they can be reformed using policy package (mixes) that would allow environmental authorities to co-ordinate reform of existing instruments and add new ones in order to develop environmentally effective, administratively efficient and targeted programmes to pursue clearly established policy goals and address priority problems.

*Review of Economic Instruments in EECCA* – this document reviews a wide range of economic instruments applied in EECCA countries for pollution control and natural resources management. Using an analytical framework developed within OECD, it proposes recommendations for strengthening of their use.

*Streamlining the Use of Economic Instruments of Environmental Policy in the Rostov Oblast, Russia* – This report presents an analysis of priority measures to improve economic instruments of environmental policy in the Rostov Oblast that are identified in the 2001 Regional Environmental Action Plan (REAP).

*Linkages between Environmental Assessment and Environmental Permitting in the Context of the Regulatory Reform in EECCA Countries* - this paper has been developed with a view to assist reforms of environmental assessment and environmental permitting in EECCA countries. It discusses the relationship between the two instruments in effective environmental governance systems and makes recommendations for a co-ordinated reform of these instruments in the region.

*Strategic Guidance for Convergence of NIS Environmental Legislation with EU Directives* – provides a road-map for convergence of environmental legislation across the EECCA towards EU directives.. The report identifies the EU Directives that could feasibly be targeted for convergence in the forthcoming years, given the environmental priorities and existing implementation capacity in the EECCA countries. The report identifies preliminary priorities that could help to target further technical assistance at the regional or national level.

**2. Reports on Environmental Enforcement and Compliance**

*Guiding Principles for Reform of Environmental Enforcement Agencies in EECCA:* a concise policy document that identifies guiding principles and key structural elements of effective environmental enforcement systems, tailor-made to the EECCA context. This document aims to assist EECCA to identify targets for institutional development in individual countries as regards environmental enforcement and compliance promotion. The Principles are addressed to environmental ministries, central and regional enforcement agencies.

*An Update of the Survey on Enforcement and Compliance in Eastern Europe and Central Asia:* The update of the Survey on Current Practices in Environmental Enforcement and Compliance Promotion in EECCA is a complimentary document to the Principles. While the Principles will state the desired situation, the Survey scrutinises it in comparison with the actual situation in the EECCA region and assesses recent changes in environmental enforcement systems.

*Synthesis Report on Environmental Permitting Systems in the NIS:* This document describes major features of the environmental permitting systems in EECCA, identifies deficiencies and screens the needs and potential to reform these systems.

*Inspection Toolkit:* The toolkit provides general elements of and contribute as much as possible to the needs of individual EECCA countries in improving their inspection organisation. The toolkit facilitates the adjustment of inspection criteria and procedures to current requirements and is, mainly, addressed to managers and practitioners.

*Glossary of Enforcement Terms:* The purpose of the glossary is to provide a common understanding of the terminology and enable users across EECCA to easier communicate among themselves and with partners in OECD and CEE countries.

*Compliance Promotion Tools* – the document reviews the current experience with applying compliance promotion tools in the EECCA region and the OECD countries and assesses the feasibility of application of broader range of instruments in the region.

### 3. Priorities for 2003-2006

At the “Environment for Europe” Conference in Kiev in May 2003, Environment Ministers asked the EAP Task Force to continue its work to promote environmental policy reform within the framework of the EECCA Environment Strategy. Work in this Programme area will support the implementation of Strategy’s Objective No 1 “Improving Environmental Legislation, Policies, and Institutional Framework”.

As the background documentation for the EECCA Strategy showed, EECCA countries have taken some important steps to reform their environmental policies, laws and regulations and strengthen compliance. However, much still remains to be done to maximize the environmental benefits of environmental policies, tools and institutions. The post-Kiev work programme of the EAP Task Force aims to support EECCA government in achieving these goals.

The main objective of the work programme will be to assist EECCA countries to promote and implement environmentally effective, economically efficient environmental policies and regulations. The new Programme of Work builds on the activities carried out previously and it will focus on assisting individual countries in reforming environmental policy instruments in a coherent way, strengthen environmental enforcement policies and institutions. Activities will focus mainly on environmental issues related to enterprises and thereby will complement other areas of the EAP Task Force work programme which target publicly-supported infrastructure<sup>1</sup>.

Most EECCA countries have indicated that they will use EU environmental Directives as a reference for reform of their environmental policies, and future work within the EAP Task Force will need to reflect this development. The immediate goal is not full approximation with the *acquis communautaire*, but rather a process of convergence; that is, a process that uses the principles, procedures and other key features of EU environmental Directives as references for reviewing and reforming environmental policies and practices in EECCA countries.

### 4. Structure of the Programme

The new work programme on promoting and implementing effective and efficient environmental policies will be implemented through the three areas:

1. Strengthening Environmental Policy Instruments;
2. Strengthening Environmental Enforcement Strategies and Instruments;
3. Improving the Performance of Environmental Enforcement Agencies.

Short descriptions of these areas are presented below. Annex 1 contains proposed individual activities under each area which will be implemented over the period 2003-2006.

#### *i) Strengthening Environmental Policy Instruments.*

The objectives of this work will be to assist environmental regulatory agencies in EECCA to strengthen two key elements of environmental policy framework: environmental permitting and standards. The work on permitting will help to streamline and integrate environmental permitting procedures for large and small and medium size enterprises. Work on environmental standards will examine the linkage of quality standards (for air and water) with emission standards (BAT), and the establishment of appropriate, technology-based performance standards for waste management. This work will build on

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<sup>1</sup> The full work programme of the EAP Task Force is presented in a document CCNM/ENV/EAP(2003)30

earlier co-operation between the European Commission, the EAP Task Force and EECCA countries which resulted in a broad roadmap for reform.

In parallel, support for redesigning the pollution charge/tax system will be provided to environmental agencies. This activity would build on reviews of economic instruments conducted within the previous work programme of the EAP Task Force and concentrate on the implementation of demonstration projects. Work would focus on reforming emission and product taxes/charges and aim to strengthen their environmental incentive and/or revenue raising functions.

Donor support for in-country demonstration projects on environmental permitting, standards reform and economic instruments will be required to test and disseminate tools and recommendations in the region.

ii). *Strengthening Environmental Enforcement Instruments*

This work programme item responds to requests from EECCA countries for support to redesign enforcement tools and the way they are applied in order to increase their effectiveness and efficiency. The activities will:

- Analyse the incentive structures related to compliance with environmental requirements that enterprises and government agencies are operating within. This will help to determine how environmental policy instruments could be applied most effectively and efficiently. Ways in which environmental enforcement can be made more financially viable, while safeguarding independence, will also be examined. This work will be followed by projects in individual EECCA countries on the design of more effective and financially viable enforcement programmes.
- Assist environmental enforcement agencies to promote better compliance through use of information-based instruments. The activities will examine information disclosure and performance rating schemes from a compliance promotion perspective. Co-operation with NRECs will help to identify means to improve dialogue between regulators and other stakeholders, and between the regulated community and the general public. These activities will be supported by in-country demonstration activities for which donor assistance will be sought.
- Assist EECCA countries in redesigning requirements and regulations for setting up effective and efficient self-monitoring systems for enterprises. Work will be based on international experience (especially from the INECE and EU Impel networks) and concrete experience gained through demonstration projects in selected EECCA countries. The results of this work will be co-ordinated with the work on environmental monitoring carried out under the UNECE.

iii) *Strengthening Enforcement Agencies*

Work under this theme would support the implementation of the "Guiding Principles for Environmental Enforcement Authorities in Transition Economies of EECCA". At the Kiev Conference, Ministers welcomed the Guiding Principles and invited "the environmental enforcement authorities in [EECCA countries] to implement the Guiding Principles and donor countries to help them to do so."

Using the Guiding Principles as a framework, a peer review process will be established involving enforcement agencies in EECCA countries to support improvements in their working methods and organisational structures, and to strengthen their dialogue with other stakeholders. Activities to develop indicators for assessing the performance of environmental enforcement and for providing information for policy purposes will be carried out. This will be implemented in co-operation with other enforcement networks to draw from, and contribute to, international efforts to harmonise enforcement/compliance and response indicators.

In addition, on the basis of training and methodological material developed previously by the EAP Task Force, training sessions for management and staff of environmental inspectorates will be carried out in co-operation with the World Bank Institute and the NRECs. Further efforts will focus on working with the institutions and training centres in EECCA to create self-sustaining mechanisms for capacity building of EECCA agencies and enforcers.

## **5. Methods of Work**

The working methods developed in the previous phase of work will continue to be applied. These will include:

- Analysing current practices and exchanging experience on priority issues;
- Elaborating guidelines, good practices and practical tools adapted to EECCA circumstances, but drawing on experience from OECD and transition economies;
- Extending policy dialogue and cooperation to industry and the non-governmental sector;
- Supporting in-country (non-investment) demonstration projects, in cooperation with EECCA partners and donors;
- Promoting capacity building and training activities for policy makers and enforcement officers;
- Helping to “broker” relations between donor and beneficiary countries, so as to help target scarce resources in projects that will achieve lasting outcomes.
- Disseminate information and link activities carried out in the EECCA region with the developments in other world regions.

While each country will have its own needs and priorities, the EECCA will benefit from exchanging experiences and developing good practices in a collective "learning by doing" process. The NIS Network on Environmental Enforcement and Compliance (NISCEN) provides an established network for these activities<sup>2</sup>. Taking account a broadened scope to cover a wide range of environmental policy issues high level environmental policy-makers from EECCA environmental ministries will be invited to the Network meetings along with the managers and practitioners from environmental enforcement agencies.

The Network will hold annual meetings to discuss and agree on the work programme and monitor its implementation. Since the Network will be open to the participation of officials and experts from OECD and CEE countries it will facilitate better targeted and coordinated donor assistance to EECCA countries. Representatives of the public and industry will be invited to the Network meetings as observers and will be engaged in relevant activities.

The work programme implementation will involve as much as possible institutions from the EECCA region, in particular NRECs, to carry out specific analytical, training and dissemination activities. This work will also draw from, and where appropriate contribute to, activities of other international programmes, including UN/ECE work on Environmental Performance Reviews and Environmental Monitoring.

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<sup>2</sup> A separate document “Terms of Reference for the Network” [NISECEN(2003)14] presents the details of the objectives and the working methods of the Network and will be subject of the discussion in Kiev.

## ANNEX: DETAILED LIST OF PROPOSED ACTIVITIES

### **PROJECT 1: STRENGTHENING ENVIRONMENTAL POLICY INSTRUMENTS**

#### **TASK 1.1: STREAMLINING AND INTEGRATING ENVIRONMENTAL PERMITTING**

##### *Objective*

Assist environmental regulatory agencies in EECCA to streamline and integrate environmental permitting procedures and requirements.

##### *Background*

Several EECCA countries have expressed their intention to move progressively toward a single integrated permit system that would replace the current cumbersome and ineffective system of multiple permits for different environmental impacts. The benchmark identified by EECCA countries is the European Union's Integrated Pollution Prevention and Control (IPPC) Directive that regulates large polluters in a range of industrial sectors through procedural and substantive (technique-based) integration of environmental permitting.

A number of activities on the permitting reform in the EECCA region were undertaken by the EAP Task Force in 2001-2003. They included several regional workshops specifically devoted to permitting; translation and dissemination of the OECD reference publication "Environmental Requirements for Industrial Permitting"; preparation of a "Review of Environmental Permitting Systems in EECCA"; and supporting demonstration projects on environmental permitting in Armenia, Georgia and Kyrgyzstan.

Russia, Ukraine, and Moldova are the first EECCA countries to actively explore the possibility of convergence with the IPPC Directive through projects assisted by different donors (EuropaID, Sweden and Finland in Russia, EC's DG Environment in Moldova, and the World Bank in Ukraine).

##### *Activities*

Work on environmental permitting will comprise two sets of activities: (1) assistance in improvement of permitting procedures; and (2) assistance in reforming the permitting systems on the basis of an assessment of the role of technique-based and environmental quality-based approaches to industrial permitting in the EECCA context.

**1. Assistance in Improvement of Permitting Procedures** (July 2003-June 2005). Fully integrated permitting is a long-term goal for EECCA, but the transition will take many years. *In the short-term, the goal should be to improve permitting procedures* by consolidating the existing single-medium permits into one environmental permit (while maintaining the medium-specific approach to setting permit conditions). At the same time, there is a need to improve the transparency and coordination between permit-issuing authorities at different steps of the permitting process. Tasks will include:

- Development, in close cooperation with EECCA experts, of user-friendly Permitting Guidelines for government agencies and industry that will incorporate:
  1. a model administrative procedure (adapted to EECCA conditions) for issuing a consolidated environmental permit;
  2. a permit application form that could be completed and processed electronically.
  3. a model permit form that specifies emission limit values (ELVs), self-monitoring, record keeping, reporting, emergency response, and permit renewal requirements, as well as compliance measures and schedules, as appropriate.

- Conducting one regional expert meeting (April-May 2004) and one regional environmental policy implementation network meeting (September-October 2004) on procedural improvements in environmental permitting.
- Implementation, in co-operation with donors demonstration projects to apply new permitting procedures in EECCA countries.
- Conducting training (contingent on funding available, May-June 2005) on the use of the Permitting Guidelines.

**2. Assistance in reforming the current approaches to Industrial Permitting in the EECCA Context based on the assessment of the Role of Technique-Based and Environmental Quality-Based Approaches** (July 2004-June 2006). In addition to the procedural reform of the permitting system, EECCA countries are likely to take initial steps toward introducing technique-based permitting for key industrial sectors in the spirit of the IPPC concept of Best Available Techniques (BAT) (currently, all permitting systems in the region exclusively follow the environmental quality-based approach.) This set of activities will seek to help EECCA countries understand the complementarity of BAT and environmental quality objective (EQO) approaches in setting emission limit values (ELVs) in environmental permits, and prepare and apply the methodological basis for their use in regulating both large and small and medium-sized industry in EECCA:

- Preparation of an analytical report and guidance on the environmental requirements for permitting of large industry, consistent with the principles of the IPPC Directive – a combination of BAT and EQO approaches. The report will describe the best international practices and include one or more case studies of individual EECCA countries on establishing a list of industrial sectors and the minimum size (production capacity or output) of installations to be covered by integrated permitting.
- Preparation of an analytical report and guidance on the methodology for permitting of small and medium-sized industry, promoting the use of a simplified approach taking into account both environmental and technological considerations.
- Conducting two regional expert meetings to assess different approaches for regulating large and small/medium-sized industries and facilitate dialogue between the regulators and the regulated industrial community: March-April 2005 and September-October 2005 (in connection with the annual Network meeting)
- Initiation and participation in donor-funded demonstration projects on environmental permitting reform in EECCA countries.

### ***Outputs***

#### *Assistance in Improvement of Permitting Procedures:*

- Tools and Guidelines for Reform (model administrative procedure, permit application form and model permit form): first draft in April 2004, final draft in December 2004, final in March 2005.
- Proceedings of the regional environmental policy implementation network meeting presenting different approaches for regulating large and small/medium-sized industries and facilitate dialogue between the regulators and the regulated industrial community: December 2004.
- Reports from country demonstration projects (2005-2006).

#### *Approaches to Industrial Permitting:*

- Guidance on permitting for large industry: draft in December 2004, final in June 2005.
- Guidance on permitting for small/medium-sized industry: draft in August 2005, final in December 2005.
- Reports from country demonstration projects (2005-2006).

### ***Benefits/Outcomes***

- Environmental regulatory agencies in EECCA at the national and sub-national levels will adopt tools and guidance documents reforming the system of environmental permitting, enabling them to improve the effectiveness of their environmental management programmes.
- Enterprises will benefit from more feasible, realistic and transparent permit requirements and procedures that would result in reduced compliance costs, foster technological innovation, and facilitate business planning.
- Other stakeholders, including the general public, will benefit from the increased transparency of the permitting system and enhanced opportunities for public participation.

## **TASK 1.2. MAKING ENVIRONMENTAL STANDARDS MORE REALISTIC**

### ***Objective***

Assist EECCA countries in setting realistic, achievable environmental standards (air and water quality standards and waste management performance standards), consistent with EU requirements.

### ***Background***

The reform of the permitting system in the EECCA region should be closely linked to the revision of environmental quality standards (for air and water) and establishment of appropriate technology-based performance standards for waste management. Previous co-operation between the European Commission, the EAP Task Force and EECCA countries resulted in developing a roadmap for reform which reviewed the EU framework Directives in the areas of air protection, water protection and waste management (and their “daughter” Directives) and presented the concepts and benchmarks for these reforms. The Partnership Co-operation Agreements which have been concluded between individual EECCA countries and the European Union provide an important framework for convergence of EECCA and EU environmental standards. The revision of environmental standards will require not only a change in numerical values but a broad-based reform encompassing the principles and the legal basis of standard setting. Depending on donor support, country-specific demonstration projects will be implemented to support such reform.

### ***Activities***

The activities will be implemented in close collaboration with work of the European Commission (DG Environment and EuropAid, bilateral donors (including a Danish project supporting reform of standards in Russia) and international organisations active in the field, and will include:

- Review of relevant pre-project and project documentation prepared by donors and consultants (2003-2006).
- Initiating of and participation in demonstration project activities (2003-2006, specific projects to be determined).
- Organization of a regional expert meeting to exchange experiences of reforms of environmental standards in individual EECCA countries (first half of 2006).

These activities are contingent on the availability of donor funding for such demonstration projects.

### ***Outputs***

- Report on lessons learned from reforming environmental standards in EECCA region: May 2006;

### ***Benefits/Outcomes***

- National environmental regulatory agencies in the EECCA countries targeted by the demonstration projects and beyond will be assisted in setting realistic, achievable environmental standards in line with EU requirements. These reforms will be closely linked to the improvement of the environmental permitting systems, contributing to increased effectiveness of their environmental management programmes and environmental quality improvements.
- The regulated community will benefit from more realistic environmental quality and performance standards leading to transparent compliance and monitoring requirements and enforcement rules.
- The general public will benefit from improved environmental quality resulting from setting achievable environmental goals.

### **TASK 1.3. STRENGTHENING ECONOMIC INSTRUMENTS FOR ENVIRONMENTAL PROTECTION**

#### ***Objective***

To assist EECCA countries to reform existing, and to introduce new, economic instruments for environmental protection.

#### ***Background***

Several reviews of the system of economic instruments for environmental protection in the EECCA region have been completed by the EAP Task Force and others. The main conclusion from these reviews is that a number of concerted actions need to be undertaken by EECCA countries to eliminate the most obvious flaws in the present pollution charge system and increase its incentive impacts, including:

- Targeted use of pollution charges (for key priority pollutants discharged by big stationary sources);
- Increase of charge rates to a level that would provide significant incentives to reduce pollution.
- Exclusion of hazardous air and water pollutants from the charge system;
- Elimination of charges for air pollution from mobile sources;
- Elimination of pollution charges on waste;

In addition, it was recommended that product taxes should be introduced as a more effective way to raise revenues. The implementation of these reforms requires a strong commitment on the part of national governments, substantial administrative resources, and economic and legal expertise. In so far as the revenues from economic instruments are earmarked for environmental purposes, this activity is closely related to work on environmental expenditures under the Environmental Finance Programme.

#### ***Activities***

Activities will focus on working with existing and new technical assistance projects in EECCA countries on identifying the key elements of reform, and on disseminating lessons learned. This will include:

- Assisting the implementation of the OECD (CCNM) project on pollution charge reform in Russia, including the preparation of a report (2003) and participation in a stakeholder workshop in Moscow (late 2003-early 2004).
- Designing and implementing (2004-2005, subject to funding availability) a project to analyze and disseminate the experience with reforming economic instruments in Armenia, the first EECCA country to undertake a major reform of its pollution charge system and introducing a range of product taxes.
- Working with bilateral and multilateral donors on the design and implementation of relevant national-level technical assistance projects in the region. This activity is contingent on the availability of donor funding for such projects.
- Conducting an EECCA regional expert meeting on experience gained from applying economic instruments in EECCA (second half of 2005).

#### ***Outputs***

- Report and recommendations on the reform of pollution charges in Russia: draft in September 2003, final in December 2003.
- Assessment of the reform of economic instruments in Armenia: first half of 2005.
- Proceedings of the regional expert meeting which will review progress with applying economic instruments and present recommendations for the future work: end of 2005.

### ***Benefits/Outcomes***

- Environmental regulatory agencies in the EECCA countries targeted by the demonstration projects and beyond will receive support in streamlining their systems of economic instruments for environmental protection (pollution charges and product taxes) in order to provide effective incentives for pollution reduction and increase revenues for their environmental programmes.
- Industry would be subject to a simpler, more transparent system of economic incentives that would be more conclusive for technological innovation and ultimately resulting in reduced compliance costs.

## **PROJECT 2. STRENGTHENING ENVIRONMENTAL ENFORCEMENT STRATEGIES AND INSTRUMENTS**

### **TASK 2.1. IMPLEMENTING EFFICIENT, EFFECTIVE AND FINANCIALLY VIABLE ENVIRONMENTAL COMPLIANCE ASSURANCE PROGRAMMES**

#### *Objectives*

- To improve the efficiency and effectiveness of compliance assurance programmes through analysis of the incentive structure that enterprises are operating in and through review of motivations and behaviour of government agencies.
- To develop economically and financially viable compliance assurance programmes, including analysis of the financial resources for operations of environmental enforcement agencies.

#### *Background*

Empirical data and analysis in EECCA and other regions have shown that inadequate enforcement and compliance can result in significant costs. Most importantly they can impose the costs of addressing negative impacts of pollution on human health. Disregard of environmental matters can also impose additional costs on enterprises. Finally, inadequate design of compliance assurance strategies can increase public spending without bringing expected results.

Economic and financial aspects of compliance assurance policies and institutions have rarely been weighted in the EECCA region. Although information exists on the incentive structure for environmentally responsible business conduct in OECD countries, direct comparison between OECD and EECCA countries is not possible due to the significant differences between economic incentives for firms' performance and overall business environment.

At the 2002 meeting of the Environmental Compliance and Enforcement Network in Almaty, enforcement officials and experts from the region underlined the need to receive assistance in developing an approach which will allow to analyse the economic context in which enforcement policies are applied in the transition period and to help to identify optimal enforcement strategies. This work should consider the role of market forces, interactions of various institutions, and citizens' involvement as well as inside-the-firm issues. The assessment should help to optimise government enforcement expenses and ensure appropriate deterrence and compliance.

Enforcement officials also requested help in receiving support to develop financial strategies and management regimes for enforcement agencies that follow national rules and the principles of effectiveness and efficiency. The development of such strategies will enable the agency's investment, operation and maintenance costs to be covered, enable adequate salaries and social protection to be provided while avoiding conflicts of interest in enforcement agencies with their statutory responsibilities and preventing corruption.

#### *Activities*

- Identification, on the basis of literature review and work with OECD and EECCA experts, of the "real" positive and negative incentives for compliance with environmental requirements in EECCA countries today and better enforcement strategies. This analysis will lead to the development of a methodology to country specific studies (throughout 2004);
- Empirical studies in selected countries will be carried out of costs and benefits of compliance efforts compared with competing demands on enterprises as well as enforcement instruments applied by government agencies (2005);
- Organizing workshop on the results of analysis and studies (second half of 2005);

- Carrying out analysis of the current and potential sources of funding of enforcement efforts in selected countries to determine the ways for sustainable financing of Enforcement Agencies (2004-2005).

#### ***Outputs***

- A report presenting the framework for economic analysis of enforcement and compliance (end 2005);
- Country specific and regional reports analyzing the positive and negative incentives in the regulated community with case studies from selected EECCA (early 2006).
- Case studies analysing funding of Enforcement Agencies, identifying options for more efficient use of financial resources and for ways in which they might be increased in a sustainable way (2004-2006)

#### ***Benefits/Outcomes***

- Environmental Enforcement Agencies will acquire additional knowledge which will enable them to understand better enterprises behaviour in responding to governmental enforcement and will assist them to design more effective compliance promotion strategies;
- Environmental Enforcement Agencies will possess an extended empirical base which will help to communicate the costs and benefits of enforcement efforts to the decision-makers and the public;
- Environmental Enforcement Agencies will be able to design more financially viable enforcement strategies, possibly based on some new, sustainable sources of finance.

## **TASK 2.2: PROMOTING INFORMATION-BASED INSTRUMENTS AND PUBLIC INVOLVEMENT IN COMPLIANCE ASSURANCE**

### *Objectives*

To promote better compliance with environmental requirements through assisting governments in developing and applying instruments which allow information disclosure, industry performance rating and better access to information by the public and co-operation between enforcement agencies, NGOs and the public.

### *Background*

The traditional command-and-control approach in environmental protection has had only limited results in the EECCA region. Therefore, EECCA governments have expressed an interest to apply new approaches that would encourage voluntary compliance rather than simply detecting and prosecuting non-compliance. One such approach involves information disclosure about firms' environmental behaviour and rating their performance. Several examples in transition or developing economies, including from Pollutants Release and Transfer Registers (PRTRs), and information disclosure and performance rating schemes, show that the impacts of such schemes are positive and the costs involved in designing and applying these schemes are not excessively high. Provision of information about enterprises' environmental impacts can be a factor in investment decisions and can lead the public to exert stronger pressures on enterprises for pollution reduction efforts.

Work will assist Environmental enforcement agencies in building regulatory frameworks that use the potential for increasing compliance via better access to environmental information, including enforcement information. The activities under this task will review progress, highlight the achievements and develop recommendations for further steps in compliance assistance to the regulated community. These activities will involve various stakeholders, including business and the NGO community. Public involvement is necessary to ensure sufficient credibility and integrity of the scheme and effective dissemination of its results.

### *Activities*

- Organising, in co-operation with the NRECs, a regional meeting on public involvement in compliance assurance promotion (late 2005);
- Launching two technical assistance projects in selected EECCA countries introducing information disclosure and performance rating and compliance schedules (2005);
- Gathering information and data to prepare a report on designing and applying information based compliance promotion tools in EECCA, including the results of in-country programmes and lessons learned from EECCA, and applying compliance promotion tools in other regions (OECD, CEE, Asia) (late 2005);
- Conducting a regional meeting on information based compliance promotion tools to review experience from in-country projects and review the report (first half of 2006);

### *Outputs*

- Proceeding of the regional meeting on public involvement in compliance assurance and promotion (early 2006)
- Reports from in-country technical assistance projects (early 2006);
- Report on key issues and application of information based compliance promotion tools – draft late 2005, final mid 2006
- Regional meeting on introduction of information disclosure and performance rating schemes – early 2006

### *Benefits/Outcomes*

- Environmental Enforcement Agencies will be provided with methodological and technical assistance for introducing information based compliance promotion activities. This will provide an additional impulse to enterprises for identifying least-cost measures to reduce their environmental impact. Industry will become more accountable for regulatory and voluntary commitments by disseminating performance data to the public;
- General public and NGOs will have an opportunity to exchange experience and information and develop activities on strengthening the role of the citizens in compliance assurance;
- Systematic account of compliance promotion activities and their analysis will be prepared to provide reference and guidance for designing and launching compliance promotion activities in EECCA and other regions.

## **TASK 2.3. IMPROVEMENT OF INDUSTRIAL SELF-MONITORING**

### ***Objective***

To optimise the design of compliance monitoring systems in EECCA, particularly by developing environmental self-monitoring by enterprises.

### ***Background***

Without regular, methodical, accurate monitoring, and timely and accurate reporting of results neither the government nor the regulatees will be able to make informed decisions about compliance with environmental requirements. Government enforcement policies require a significant amount of expenditures for environmental monitoring. However, monitoring systems have collapsed in many EECCA due to budget constraints. Several innovations have been suggested to address this situation. Self-monitoring and self-reporting induced by the government can be one of the avenues to complement government monitoring efforts and reduce enforcement costs without compromising deterrence. Prompt and accurate self-reporting may also be beneficial to firms to limit their liabilities in case of emergencies and can be taken into account by prosecutors.

Well-developed self-monitoring system can also contribute to a better management of a facility: mitigate risks of accidents and inherent costs, monitor technological processes, reveal wastage of resources, project production development, etc. Self-monitoring data are a valuable source of information for project design and decision-making on investment.

The experience to date suggests the need to revisit current approaches to monitoring and expand self-monitoring in EECCA. While improvement of compliance monitoring by the government, more precisely of the ambient monitoring, is an issue of high visibility and aid from international organisations and donor countries, the need to strengthen self-monitoring and on-site inspections remains largely unrealised. After comparing statistics on the percentage of industries carrying out self-monitoring (on average 5-10%) and the fact of restricted access to facilities (once per year) in the majority of EECCA countries, representatives of environmental ministries and inspectorates have called for action in this domain.

Work will assist EECCA countries in developing requirements and regulations for setting up effective and efficient self-monitoring systems based on international experience (especially gathered within the INECE and EU Impel networks) and concrete experience gained through demonstration projects in selected EECCA countries (Kazakhstan). The results of this work will be co-ordinated with the work on environmental monitoring carried out under the UNECE.

### ***Activities***

- Pilot project in Kazakhstan will be launched in late 2003 which will analyse the current situation, and present recommendations for developing tools to select priority elements of self-monitoring systems and identifying the types of industries that should be subject to continuous self-monitoring and regular inspection.
- A national workshop to discuss the proposals to improve the existing self-monitoring system will be conducted in late 2003 or early 2004.
- Regional consultations for countries in Central Asia will be carried out in 2004 to discuss the outputs of the demonstration project, priority setting tool for self-monitoring and approaches to replicate gained experience.
- Development of technical guidance to help industry and regulators to identify requirements for self-monitoring, select indispensable elements of the system and help to develop necessary policy tools will be carried out throughout 2004-2005.

### ***Outputs***

- Report reviewing requirements and experience with self-monitoring in Kazakhstan (second half 2003)
- Proceedings of regional meeting on self-monitoring in Central Asia (end 2004)
- Technical guidance on criteria and requirements for self-monitoring (early 2005)

### ***Benefits/Outcomes***

- Improvement of self-monitoring will provide mechanisms for polluters to collect routinely necessary information about the industrial processes to ensure compliance and timely react to any pollution incidents as well as reduce investment risks;
- Establishing credible systems of self-monitoring will help to build more effective and compatible state monitoring systems;
- Requiring mandatory self-monitoring, but also demonstrating its value for industry, will raise the percentage of enterprises that are willing to create a reliable self-monitoring system;
- Adequate access to information will be ensured through better input to PRTRs.

## **PROJECT 3. IMPROVING THE PERFORMANCE OF ENVIRONMENTAL ENFORCEMENT AGENCIES**

### **TASK 3.1: PEER REVIEWS OF ENVIRONMENTAL ENFORCEMENT AGENCIES**

#### ***Objectives***

To establish a “peer review” process that would promote sharing of experience and identify practical ways to strengthen Environmental Enforcement Agencies (ENFAs), as well as would create sufficient international peer pressure to catalyse the reform of compliance assurance systems.

#### ***Background***

EECCA countries recognised the need for reform of the current compliance assurance and promotion systems to facilitate the effective and efficient implementation of environmental policies, to better enforce domestic and international law and ensure the credibility of regulation. The «Guiding Principles for Reform of Environmental Enforcement Authorities in Transition Economies of EECCA», which were developed by the EAP Task Force constituted an important step in building a consensus on the targets for reform using good international practices. The Guiding Principles were endorsed at the Ministerial Meeting in Kiev in May 2003 to facilitate reform process and provide the basis for co-operation.

The Guiding Principles will provide a reference for carrying out peer reviews of environmental compliance assurance programmes and institutions in the EECCA region. The goal is to help countries to improve the performance of ENFAs, help governments to assess progress in this process, stimulate greater accountability towards public opinion and international partners, and establish a process of mutual support for ENFAs engaged in the reform of their institutions. The Reviews will provide descriptive and quantitative information on the institutional and management framework for enforcement and compliance assurance, and assess enforcement strategies, tools and their impacts. The review will also assess compliance promotion efforts, including the role of the general public and regulated community.

#### ***Activities***

The methodology and process for peer reviews which will be elaborated and tested in two-three EECCA countries over the period of three years. More specifically, the activities will focus on:

- developing necessary background documentation, including a draft review methodology paper, a questionnaire and procedures to be used during the reviews (second half of 2003);
- organising a kick off expert meeting to discuss and agree on the review methodology, on the scheduling of reviews, composition of the review teams, management of the process and reporting (second half of 2003);
- organising review missions involving a group of selected experts, including from EECCA, Central Europe and OECD countries (first mission in early 2004, second mission in early 2005);
- presenting and discussing the review reports at the meetings of the regional network on environmental policy implementation (annual meetings in early 2005 and early 2006);
- refining the methodology of reviews and disseminating the results of the reviews to inform the governments and engage public and international opinion in assisting the reform process (throughout the duration of the review process).

#### ***Outputs***

- Methodology paper on Environmental Compliance Assurance Peer Reviews (end 2003).
- Reports of pilot country reviews with recommendations (first review completed in late 2004, second in late 2005 and possibly third in 2006).

### ***Benefits/Outcomes***

The activities will help the reform of EECCAs' compliance assurance programmes and institutions in line with good international practice, identify areas where further efforts are needed to strengthen enforcement and compliance practices, and suggest how impediments to implementation could be overcome. It will also encourage further collaboration between EECCA inspectorates, stimulate exchange of experience, identify and disseminate innovative practices.

## **TASK 3.2: DEVELOPING ENFORCEMENT AND COMPLIANCE INDICATORS**

### ***Objective***

To assist enforcement agencies in evaluating and better managing their performance as well as demonstrating the results of government enforcement activities by developing indicators of compliance programmes and their impacts.

### ***Background***

Over the years, compliance assurance programmes evolved, as did demands for reliable, harmonised and easily understandable information not only by environmental policy makers but also by other public authorities, businesses, the general public, environmental NGOs and other stakeholders. Enforcement and compliance indicators would be a practical way for providing information on enforcement and compliance activities for policy purposes and help to improve the transparency and accountability.

Measuring the performance of enforcement programmes has been carried out in EECCA and various parameters have been used. Most countries measure activity levels, such as numbers of inspections and enforcement actions. Some countries present qualitative assessment of programme performance and directions. In only very few cases the results of enforcement actions are measured, such as rates of compliance and actual impact of compliance assurance on the improvement in environmental quality.

The Guiding Principles for Reform of Enforcement Agencies in EECCA call for the development of indicators against which Agencies' performance can be measured and continuously improved. Responding to this call this task will aim to assist EECCA enforcement agencies in designing indicators for both outputs and outcomes. The work will also help to establish procedures to apply both quantitative and qualitative indicators, with regular feedback to managers, political leaders and legislature. It will also provide an input to the Peer Reviews of Enforcement and Compliance Systems. Activities will be implemented in close co-operation with the OECD programme on environmental indicators as well as other regional and global compliance and enforcement networks (ie. INECE, IMPEL, BERCEN) and will both draw from and contribute to international efforts to harmonise enforcement/compliance and response indicators.

### ***Activities***

- Analysis of current experience with applying enforcement/compliance indicators from various countries and developing the methodological framework and good practices for designing and applying output and outcome indicators (August-October 2003);
- Conducting an international expert workshop on enforcement and compliance indicators (November 2003);
- Dissemination of the results of the analysis to relevant stakeholders;
- Implementation of two pilot projects in selected EECCA to assist enforcement agencies to design and apply performance indicators (2004-2005);

### ***Outputs***

- Scoping Paper on the current and future application of enforcement/compliance indicators (first draft in October 2003)
- Proceeding of the Expert Workshop presenting experience from applying enforcement and compliance indicators in EECCA and other regions (March 2004)
- Reports on the results of technical assistance projects to reform enforcement and compliance indicators in two EECCA, including country workshops (2004-2005);

### ***Benefits/Outcomes***

- Improved effectiveness of Enforcement Agencies through the use of performance indicators for decision-making
- Strengthening transparency, accountability and political support for Enforcement Agencies
- Ensuring internal and external accountability, help to create deterrence and strengthen compliance assurance systems and agencies as well as ensure public and political support for the compliance assurance programmes.
- Contribution towards international harmonisation of enforcement and compliance indicators.

### **TASK 3.3: BUILDING CAPACITIES OF ENFORCEMENT MANAGERS AND OFFICERS**

#### ***Objective***

To build the capacity of managers and staff of environmental inspectorates in developing and implementing effective enforcement strategies, professional management systems and enforcement and compliance instruments.

#### ***Background***

Past efforts to strengthen enforcement institutions often involved continuous organisational reform without improving decision-making processes, management approaches and skills of individuals. This has led to institutional instabilities, distortion of priorities and loss of (or shortage of) professional staff. Addressing the challenges of effective and efficient implementation of environmental regulation requires enforcement officers to introduce well-defined compliance assurance strategies and tools, and apply them consistently and continuously. They also need to apply internal management systems which are systematic, well planned and fit the existing enforcement and compliance capacities. Inspectors have to acquire solid training on procedures which are supported by solid scientific, economic and legal understanding.

Training and methodological material based on best international practice in compliance assurance has been developed by the EAP Task Force Secretariat during the 2001-2003 work programme. This included a comprehensive Inspectors Toolkit which covers a number of management, procedural and substantive aspects of enforcement and compliance. Members of the EECCA Environmental and Compliance Enforcement Network at their meeting in Almaty in 2002 requested training sessions for management and staff of environmental inspectorates. The “Guiding Principles” also call for the improvement of competencies of enforcement officers and others through training and other mechanisms for professional development. The toolkit was used for training of environmental inspectors in the Caucasus region in June 2003. Further efforts will focus on working with the institutions and training centres in EECCA to create self-sustainable mechanisms for capacity building of EECCA agencies and enforcers.

#### ***Activities***

- Developing of a set of training materials adjusted to the country/region conditions (end 2003 – early 2004);
- carrying out two five-day training sessions for enforcement managers and officers in the Russian Federation and Central Asia, in co-operation with such potential partners as UNITAR, the World Bank Institute and/or the NRECs (2004-2005);
- identifying mechanisms, relevant institutions and priority actions at the international and national level which will lead to the establishment of continuous training programmes for enforcement officers in EECCA region.

#### ***Outputs***

- up to 60 professionals in Russia and Central Asia trained on strategic enforcement and compliance;
- a core group of trainers trained to carry in-country capacity building activities;
- Training curricula and materials: trainer notes, exercises and case studies for further use by local training institutions;

### ***Benefits/Outcomes***

- The managers of environmental inspectorates and enforcement officers will better understand their leadership role, responsibilities and powers (and their limits), and professional programme management and will be better equipped to apply their professional skills in environmental enforcement and compliance promotion.
- The establishment of self-sustaining capacity building mechanisms in EECCA will be facilitated.