

**SECURING RESOURCES FOR ENVIRONMENTAL  
REGULATION AND ENFORCEMENT IN KAZAKHSTAN:**

**Prospects for improved budget  
planning and management**



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*This report is also available in Russian under the title:*

***Финансовые аспекты экологического регулирования и контроля в Казахстане:  
Роль лучшего бюджетного планирования и управления средствами***

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## FOREWORD

Access to funding strongly influences the extent to which government programmes aimed at ensuring environmental compliance are implemented. Regardless of the level of country's economic development, governments throughout the world operate under growing pressures to do more with less resources. Occasionally, funding provided to competent authorities may be increased but such an increase requires solid justification and both popular and political support. Sound analysis can support such discussions.

The current report looks into the level of funding and the budget management practices used by the Committee for Environmental Regulation and Control (CERC) of Kazakhstan, and the impact of financial constraints on its capacity to carry out its statutory obligations. Based on existing international benchmarks, the report assesses the Committee's capacity to plan and manage its financial resources and proposes both short- and medium-term improvements. The OECD paper *Funding Environmental Compliance Assurance* served as an analytical framework for the study.

The report was prepared in the framework of the Task Force for the Implementation of the Environmental Action Programme for Central and Eastern Europe (EAP Task Force), whose secretariat is located in the OECD's Environment Directorate. The Ministry of Environmental Protection of Kazakhstan has been involved in the work of the EAP Task Force and its experts' networks over the years, in particular in the Regulatory Environmental Programme Implementation Network (REPIN). As part of the Network activities, the Committee has received expert advice aimed at improving different elements of the country's compliance and enforcement system. The study is part of this work.

The views expressed in this report are those of the authors and do not necessarily reflect those of the OECD or its member countries. The preparation of this report was financially supported by the government of Norway, through the Royal Ministry of Foreign Affairs.

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## LIST OF ABBREVIATIONS

ABC	Activity-based costing
CEC	Committee for Environmental Control
CERC	Committee for Environmental Regulation and Control
EAP TF	Task Force for the Implementation of the Environmental Action Programme for Central and Eastern Europe
EEA	Environmental enforcement authority
EECCA	Eastern Europe, Caucasus and Central Asia
EU	European Union
GDP	Gross domestic product
GNI	Gross national income
IPPC	Integrated Pollution Prevention and Control
ISO	International Organization for Standardization
KZT	Kazakh Tenge
MBO	Management by objectives
MEA	Multilateral environmental agreements
MEP	Ministry of Environmental Protection
NGO	Non-governmental organisation
OECD	Organisation for Economic Cooperation and Development
OSCE	Organisation for Security and Cooperation in Europe
REPIN	Regulatory Environmental Programme Implementation Network
SME	Small and medium-sized enterprise
TBB	Task-based budgeting
UK	United Kingdom of Great Britain
UNDP	United Nations Development Programme
UNECE	United Nations Economic Commission for Europe
UNEP	United Nations Environmental Programme
USD	United States dollar
VROM	Ministry of Housing, Spatial Planning and the Environment of the Netherlands
ZBB	Zero-based budgeting

## Exchange rates

In the conversion of financial data presented in this report, i.e. Kazakh Tenge into US dollars (USD) and Euro (EUR), the following annual average exchange rates were used:

	2000	2001	2002	2003	2004	2005	2006	2007	2008 <sup>1</sup>
<b>Tenge/USD</b>	142.1	146.7	153.3	149.6	136.0	132.9	126.1	122.6	120.5
<b>Tenge/Euro</b>	134.4	132.4	144.68	168.79	169.0	165.42	158.3	167.8	180.4

1. Average data for the first quarter of 2008.

Source: IMF, *World Economic Outlook database*, April 2008; National Bank of Kazakhstan.

## Major macro-economic indicators

	2000	2001	2002	2003	2004	2005	2006	2007
GDP (USD mln)	18 275	22 135	24 599	30 860	43 152	57 124	81 003	103 840
GDP (% change, real terms)	9.8	13.5	9.8	9.3	9.6	9.7	10.7	8.5
GDP per capita (PPPs, current international dollars)	4 811	5 597	6 247	6 934	7 735	8 732	9 962	11 086
Population, total (million)	14.9	14.9	14.9	14.9	15.0	15.1	15.3	15.4
Poverty rate (% population below USD 2/day)				16.0				
Consumer price inflation (average, %)	13.3	8.4	5.9	6.4	6.9	7.6	8.6	10.8
Unemployment (annual average, % of labour force)	12.8	10.4	9.3	8.8	8.4	8.1	7.8	7.0
Current account balance (USD million)	546	-1 194	-1 024	-273	335	-1 056	-1 795	-6 851
Current account (% of GDP)	3.0	-5.4	-4.2	-0.9	0.8	-1.8	-2.2	-6.6
Trade balance (USD million)	2 168	983	1 987	3 679	6 785	10 322	14 642	13 015
Gross fixed capital formation (% of GDP)	17.3	23.7	24.0	23.0	25.1	28.0	29.1	..
External debt (% of GDP)	69.3	68.4	74.1	74.3	75.8	76.0	91.4	90.4
External debt (% exports of goods and services)	122.7	148.8	157.8	153.4	145.8	142.3	178.1	186.9
Foreign direct investment, net inflows (% of GDP)	7.0	12.8	10.5		9.6	3.5	3.1	5.3
Aid (% of GNI)	1.0	0.7	0.8	1.0	0.7	0.4	0.3	..

Source: EBRD, *Transition report 2007*; IMF, *World Economic Outlook database*, April 2008; World Bank, World Development Indicators database, 2007.

## EXECUTIVE SUMMARY

This report reviews the budget planning and management practices applied by the Committee for Environmental Regulation and Control (CERC) of Kazakhstan. It also considers possible measures that could help to secure adequate resources for the Committee's compliance assurance activity. The report covers a number of critical issues, including revenue, costing approaches and budget formulation practices, funds allocation and expenditure management, as well as scenarios for addressing funding gaps. The legal and institutional aspects that have direct impact on the resource-intensity of compliance assurance (and thus financial implications) are part of the analysis. The analysis assumes that compliance assurance strategies should be guided by modern regulation and good governance principles that include, among others, orientation to achieving results, consistency, coherence and integrity, public participation, as well as transparency and accountability. Equally, sound budget management principles and use of regulatory cost-recovery should be applied to increase the efficiency of compliance assurance.

**Institutional and legal framework:** increasing autonomy of the environmental enforcement authority against the background of wider scope of work. The Committee is an autonomous agency within the Ministry of Environmental Protection (MEP) of Kazakhstan, established in October 2005. Over the past years, this government body has undergone a series of transformations that gradually enlarged its scope of activity and the degree of autonomy in line with good international practice. Most recently, the Committee was re-organised in November 2007 when the environmental expert review and permitting functions were assigned to the Committee in addition to compliance monitoring and administrative enforcement.

**Resource allocation: missing link to the regulatory load.** The diversification of CERC functions, coupled with widening scope of environmental regulation, created important organisational and financial challenges. These can be further aggravated by the growing number of enterprises (particularly small and medium enterprises) in Kazakhstan that are subject to regulation and compliance monitoring. Furthermore, a poor quality interaction with multiple government bodies, involved in environmental enforcement, poses an additional burden on inspectors' work which is not always accounted for in budget planning. The number of staff does not seem to be sufficient to effectively carry out the control and regulatory tasks and is not expected to increase in the near future as there is a cap on the number of full time units allocated to the MEP and its divisions. Also, staff turnover, particularly at a national level (about 10%), is significant (also compared to OECD countries where this rate is about 1-5%) and this can further undermine the quality of inspection. On the other hand, CERC staff at both national and local level work with enterprises to introduce self-monitoring programmes as a way to increase the efficiency of control activities and reduce budget costs.

**Budget planning: poor understanding of expenditure and budget deficit.** In 2007-2008, when the review was conducted, the CERC had a separate legal personality, but lacked control over budget planning and execution, most of its expenditure being planned by the MEP. Annually, the MEP prepares a budgetary programme which is approved by the Parliament. However, there is no specific sub-programme related to CERC activities in the Ministry's overall programme. As a result establishing the exact volume of resources allocated to enforcement activities is very difficult. This considerably limits the possibility to assess whether public funds were used effectively. Rough estimates show that CERC expenditure (particularly current expenditure) were growing by some 60%

between 2004 and 2007. So have investment expenditure, although this trend is expected to reverse starting from 2008.

Estimating the CERC budget deficit is equally difficult. The CERC expenditure in 2005 and 2006 as a share of total government expenditure constituted about 0.03% (including investment expenditure at a local level). These shares may be higher if additional administrative costs for maintaining staff are included (such as expenditure for social security or operational expenditure of the CERC offices). For the sake of comparison, the level of expenditure of the enforcement agencies in Poland (state and regional inspectorates) and in Ireland (Environmental Protection Agency), which seem to have similar functions to those of Kazakh CERC, were about 0.05% in Poland and 0.08% in Ireland in both 2005 and 2006. Projections made within the medium-term fiscal policy for 2007-2009 show that while economic growth will continue, the share of government expenditure in GDP is expected to decrease, with environmentally-related expenditure expected to drop faster than other budgetary expenditure. In addition, the expected decreases in environmental budgets should be seen against the growing workload of inspectors.

**Revenue: non-diversified sources.** The CERC has one single source of revenue: the republican budget and the current legislation does not provide for other (potential) revenue sources. Introducing permit or inspection fees is seen as incompatible with the principle of integrity as such a mechanism is believed to provide inappropriate incentives for staff and to foster corruption. However, experience from other countries suggests that regulatory cost recovery, if properly designed and rigorously implemented, may constitute a legitimate source of funding.

**Perverse incentives to focus on fiscal objectives.** CERC has direct responsibilities for collecting fines, even though revenues go to the state budget. The level of revenues from fines grew from about 400 **thousand** Euro in 2002 to 3.5 million Euro in 2006. There are “plans” for collection of fines and the Ministry of Finance closely monitors and enforces their implementation. Because of distorted performance indicators, this has a serious impact on objectives pursued by CERC and makes its work very much focused on fiscal rather than environmental outcomes.

**Drivers for change: evolving policies of public finance.** Over the past several years, MEP and CERC benefited from reforms in the area of public finance. These reforms were aimed at improving transparency and accountability as well as fighting corruption at all levels of state administration. To supervise budget execution, a State Treasury and a Treasury Single Account were created. Since then all public money has been channelled through this account. A medium-term fiscal framework has been introduced. Budgetary entities are required to prepare programme estimates for a period of three years and to have their programmes supported by the so-called “programme passports”, which contain information on objectives, performance indicators and costs. These efforts are meant to lay the basis for a full-fledged medium-term expenditure framework which encompasses both revenue and expenditure on a multi-year basis, and performance-oriented budget planning.

**Pace of public finance reform: need for significant implementation efforts.** The reform of budget planning practices is still at a very early stage and, as such, the medium-term budgetary framework remains more of a declaration than an actual policy planning tool. Medium-term fiscal commitments by the government are not binding. Budgetary programmes are not well-justified and are poorly costed. While the government aims at improving transparency and introducing performance-based budgeting, objectives in budget programmes are very generally stated and performance indicators are related to outputs rather than results. Given that there is no separate sub-programme on environmental regulation and enforcement, there is very little space in the MEP budgetary programme to present even specific outputs related to enforcement activities.

The MEP uses traditional methods of budgeting which favour controlling inputs rather than results as well as encourage over-reporting of needed resources instead of sound and realistic planning. Other approaches to budgeting which place a strong emphasis on the link between policy objectives and budget planning, based on achievable and verifiable indicators (e.g. performance-based budgeting, task-based budgeting), have been successfully tested in a number of developed countries and are producing good results. The MEP (as well as the Kazakh government for that matter) is moving in this direction but effective implementation of these approaches is not easy. It requires an overall shift in the philosophy of budgeting and decisions at the highest level of government.

**Fund-raising: lack of political and popular support.** Transparency and accountability are still not rooted firmly in the CERC's organisational culture. Despite the fact the Committee is obliged to prepare a number of reports on a monthly, semi-annual and annual basis, none of these reports are available to the public at large. Information and data related to financing environmental enforcement are very hard to obtain and are not adapted to the needs of target audiences. The lack of information or its poor presentation undermines transparency and credibility of CERC, prevents it from becoming better understood and appreciated by the government, and deprives it from the popular support.

**Policy recommendations.** The Committee jointly with the Ministry's management will need to look for ways to secure adequate resources for environmental regulation and enforcement. New revenue sources can be considered, and more advanced budget planning and management techniques explored. The recommendations worked out as a result of this study could provide a starting point for such discussions. In this context, some of the major recommendations offered to the MEP and CERC management include:

- Establish a separate budget programme for environmental regulation and enforcement activities;
- Improve activity planning by making it more targeted and specify clearly the objectives and results to be achieved;
- Promote efficiency gains and reduce costs by rationalising further the compliance assurance system. This could be achieved by improving coordination between different agencies involved in state environmental control, developing a common enterprise database accessible to all inspectors in the country, encouraging more self-monitoring and compliance promotion activities, and working more closely with civil society to raise the public's pressure on offenders;
- Create better incentives to reduce staff turnover. Retaining staff is crucial for the CERC efficiency of work. Introduce a real performance management system to evaluate the results of staff work. Introduce annual individual objectives which are linked to the CERC objectives. Link staff rewards to their performance;
- Implement performance-based budgeting in a more rigorous way in line with good international practices (e.g. create a link between allocated resources and actual results). Use meaningful, easy to measure and understand indicators. This will help increase transparency and accountability as well make CERC better appreciated both within the government and by the public at large;
- Ensure that budget requests are properly costed and adequately supported by arguments and evidence. The proposals, and the supporting evidence, should be effectively communicated to the various levels of administration responsible for preparing and passing the budget;

- Hire staff with economic and financial knowledge, or train current staff in financial management. Such staff can support inspectors to better cost and budget their programmes. Well-justified programmes are needed to support requests for more resources from the budget;
- Conduct a separate analysis of the effectiveness of the use of CERC resources by inviting external evaluators. Increase disclosure of information by widely disseminating results from evaluation analyses;
- Explore the possibility to introduce fee-based services which can generate resources for environmental compliance activities. Introducing such financing sources would require significant changes in the law. The CERC, jointly with the Ministry, should study the experience of countries which successfully use such sources, including the safeguards that would be needed to combat possible incentives for misuse of this authority and the associated revenues.

Some of these recommendations certainly go beyond the mandate of the CERC and the Ministry alone, but the environmental authorities may seek to initiate a discussion within the government on these issues. The current administrative reform may provide a good and timely forum for such a dialogue.

While the current budgeting system is expected to continue to be in place for a while, there are plans in the MEP to eventually create a separate budget programme on regulation and compliance. The recent restructuring of CERC provides an opportunity to better integrate budget planning and management practices into the Committee's functions. This could help make the CERC activities more visible and potentially secure additional resources for compliance assurance. In addition, matching financial autonomy with accountability is the best incentive for improving the efficiency of public funds spent on regulatory and enforcement activities.

## **1. INTRODUCTION**

### **1.1 Background**

Since its independence in 1991, Kazakhstan has undergone significant political and economic changes. Establishing Kazakhstan as one of the 50 most competitive economies in the world constitutes a top priority in the national development strategy. A key component of this process is achieving sustainable economic growth while reducing pollution levels and making rational use of the country's rich natural resources, as indicated in the national strategy "Kazakhstan 2030".

With the aim of further shaping up this vision, the Ministry of Environmental Protection (MEP) has defined specific policy goals and established a comprehensive regulatory framework. Simultaneously, the government actively reformed the design and application of environmental policy instruments, aligning them with good international practice. These reforms were further consolidated and scaled up through the adoption in 2007 of the Environmental Code of Kazakhstan. Recognising the critical need for its implementation, the MEP established in October 2004 the Committee for Environmental Control (CEC), which in November 2007 was reorganised into the Committee for Environmental Regulation and Control (CERC).

But securing resources for an effective work of CERC has been and remains a challenge against the background of a continuously slimming state budget. To address this challenge, Kazakh environmental authorities adopted a whole range of modern approaches that can increase the cost-effectiveness of the compliance assurance system in the country, such as integrated permitting and longer periods of permit validity, self-monitoring, industry rating, etc. To reduce the regulatory load, some segments of the regulated community have been transferred under the jurisdiction of local public authorities.

While many of the efficiency gains have been identified as concerns sector-specific practices of work, less attention has been paid to reforming its financial aspects. One explanation was the lack of relevant powers within the former CEC that prevented its employees from considering efficiency gains linked to better budget management. This situation is likely to change as of 2009, when the CERC will be required to have its own budget. Active promotion of new budget management approaches at the government-wide level constitutes an additional driver of change.

### **1.2 Objectives of the study**

Anticipating a higher degree of budgetary autonomy, in 2006 the CEC management requested the OECD/EAP Task Force Secretariat to conduct an independent and objective evaluation of the financing aspects of environmental compliance assurance in Kazakhstan. This was done by assessing the management and financial planning practices of the Committee for Environmental Regulation and Control and the resource implications of these practices.

The report proposes a set of recommendations for further improving the effectiveness and efficiency of the budget formulation and management of the Committee. In such a way, the review

aims to support the Kazakh environmental authorities in their efforts to raise the efficiency of compliance assurance in the country.

### **1.3 Review process and methodology**

In 2004-2005, the OECD EAP Task Force Secretariat developed an analytical framework for screening funding environmental compliance assurance systems. This framework covers a number of critical issues, including funding needs and patterns, costing approaches and budget formulation practices, funds allocation and expenditure management, as well as scenarios for addressing funding gaps. Issues related to the legal basis and institutional set-up, which have direct impact on the effectiveness and efficiency of the compliance assurance system in the country, and thus financial implications, are part of the analysis. The framework was used for reviewing and comparing practices in several OECD countries. Based on the review, international benchmarks have been identified and summarised in a report, published under the title “Funding Environmental Compliance Assurance”.

In response to a request from Kazakhstan to apply this assessment framework in a transition country context, the Secretariat has developed it further and conducted a country-specific review. This work was carried out in close co-operation with the Ministry of Environmental Protection and its units, involving three stages: (i) preparatory activities, (ii) review, and (iii) drafting missions. A comprehensive set of background documents were gathered by the review team prior to and during the appraisal mission (see the section on References). The review mission took place on 16 – 18 July 2007 when the team visited Astana. During that time the team had discussions with MEP and CERC staff and experts from other ministries and state institutions, all concerned with or directly involved in shaping the country’s environmental compliance assurance policy.

The results and recommendations presented in the report were further discussed with CERC staff. In addition, the results and the lessons learned from this assessment will be disseminated through other EAP Task Force channels, including within the EAP Task Force’s REPIN Network.

The recommendations from this review could be used as a basis for discussions and consensus-building among key stakeholders in Kazakhstan on raising the profile of its environmental enforcement agency by ensuring a more predictable and stable revenue stream for compliance assurance activities.

### **1.4 Contributors**

The project was managed by Nelly Petkova. The report was prepared jointly with Rafal Stanek, a consultant from SST-Poland. The report is based on available documents and data, as well as on inputs provided by Kazakh officials. The cut-off date for most of the financial data used and analysed in this report is end of 2006; more recent data and information were used when available.

The authors would like to thank MEP and CERC staff for their support for and contribution throughout the implementation of the project in Kazakhstan, and in particular Kazken Orazalina, Karlygash Zharkimbekova, and Natalia Kryachkina. The report has been reviewed by Angela Bularga and Brendan Gillespie from the OECD. Carla Bertuzzi helped with collecting and verifying statistical data. Shukrat Ziyaviddinov provided administrative support to the project. The report was translated into Russian by Natasha Chumachenko. All these contributions are gratefully acknowledged.

## 2. ANALYTICAL FRAMEWORK FOR THE REVIEW

This chapter presents the analytical framework for the assessment of practices to finance environmental regulation and enforcement authorities. It draws on the OECD report “Funding Environmental Compliance Assurance” that identified good international practices in the field under review.

### 2.1 Factors determining the resource-intensity of regulation and enforcement

The resource intensity of environmental regulation<sup>1</sup> and enforcement<sup>2</sup> and, consequently, the funding needs of competent authorities are influenced by a number of factors, most importantly:

- Commitments arising from domestic and international environmental legislation and priorities established by political leaders;
- The size and profile of the regulated community, including the potential impact of different facilities, the complexity of processes, the compliance history of companies, the geographical dispersion of facilities and historical environmental problems, etc.;
- Unexpected new burdens, particularly in the case of major accidents;
- The complexity of procedures and duties, thus resources required for undertaking them;
- Commitments to cooperate with other regulatory bodies, and time allocated for coordination and joint actions;
- The level and available mix of staff knowledge and skills;
- The management approaches and tools available to facilitate the fulfilment of administrative tasks.

Considering all these factors makes the art of funding needs assessment very difficult. In most of the cases, authorities will have to balance the demands that are placed on them with resources that may be allocated for performing the work. Setting priorities and receiving approval from political leaders is one of the key avenues for resolving such competing demands. Often, compromises need to be reached on desirable levels of activity compared to what is feasible.

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<sup>1</sup> This includes expert evaluations of environmentally-damaging activities and permitting.

<sup>2</sup> This includes compliance promotion and monitoring, administrative enforcement, and participation in civil or criminal judicial enforcement.

## 2.2 Evaluation of costs

Budget planning involves a number of major elements, including: (i) projection of future resource requirements; (ii) taking account of new working methods (*e.g.*, to increase efficiency) and their effects on the budget; (iii) identifying contingencies for unexpected expenditure; and (iv) taking account of specific budgetary constraints (*e.g.*, relating to the sources of funding). Within this process, both operational needs and capital investment are considered.

Operational costs for environmental compliance assurance generally consist of:

- Personnel, including salaries, social payments, insurance, as well as training;
- Office supplies, and communication and publication costs;
- Laboratory supplies and field sampling material;
- Vehicle/fleet maintenance, maintenance for computers, laboratories, etc;
- Funds necessary to outsource certain tasks.

The *personnel-related costs* generally represent the most significant operating expenditure, and therefore understanding the time input needed to fulfil the objective and targets of the competent authority is the key to projecting operational costs. The calculation of staff time will be largely based on the level of total regulatory effort, which is a function of facility numbers under certain categories and category-specific regulatory effort. The facilities' environmental and non-compliance risks are commonly used for grouping them in categories.

Frequency and duration of tasks (either permitting or inspection) are other important variables for estimating the regulatory effort. Commonly, the frequency of permitting is determined by the legal validity of permits. However, additional burdens can arise if companies substantially change their production processes that leads to the need of reconsidering the permit conditions in light of those changes. The time spent per one permit depends upon the complexity of permit procedures and the content of permits. As concerns inspection, some inspectorates develop decision-making policies that indicate the standard frequency and duration of on-site visits and other types of compliance monitoring activities. These are often sector-specific, with further guidance provided to inspectors on adjusting standard parameters to specific facilities based on the risk of these facilities to the environment and the behaviour risk (history of non-compliance).

All inspectorates will have to carry out reactive inspections in response to accidents, polluting incidents, or to complaints by citizens. Even though it is difficult to calculate the time required for such events for the purpose of programme planning, the review of past experience and the extrapolation for the future should facilitate such calculation. Based on such an estimate, a proportion of time may then be set aside for foreseeable but unplanned events. There will be a range of other activities where some time estimates are needed, such as: desk review and travel time; identifying facilities operating without permit; reporting, checking, and maintaining public registers; and appeal and prosecution work.

A detailed calculation of staff needs implies an analysis of duties that are not related to direct interaction with the regulated community. These may include administration, advising colleagues in any areas of personal expertise, providing feedback on the development of legislation and supporting regulations, training, responding to general queries, presenting or attending seminars, research

management, attending meetings on behalf of the organisation, etc. This will vary from country to country, depending upon organisational structure and management arrangements.

Besides defining the number of staff, it will be important to evaluate the type of expertise required. The key employees are permit writers, inspectors, and enforcers that commonly have both technical and legal knowledge and skills. Specialists – *e.g.*, chemical analysts, hydrologists, instrumentation experts, laboratory staff, etc. – may also be employed, either full-time, or based on short-term contracts. In addition, a competent authority will need personnel for general management, administrative tasks, financial matters, legal support, information technology management, public and international relations, etc.

The *non-personnel operational costs* are generally more difficult to estimate than personnel costs. These costs often are calculated by employing cost-estimating ratios that have been used in prior year budgets. Historical data are used for inspectorate budget planning in many countries, including Australia, Canada, and the Netherlands. Alternatively, expected expenditures may be estimated. This approach is generally more accurate; however, it is also more time-consuming than an approach that relies on ratios. The majority of OECD countries use a combination of both approaches.

Countries have a variety of needs for *capital investment* that generally refer to the purchase of assets that provide services beyond a single accounting period or a single year. Following are examples of capital expenditures that are required for effective implementation of compliance assurance programmes:

- Central and regional laboratories provide reliable sample analysis and conduct applied research;
- Office space for the headquarters and regional units that may be secured through rental arrangements, long-term leases, or through direct purchase or construction;
- Equipment for information management and communication;
- Vehicles to facilitate on-site visits;
- Other capital miscellaneous items, such as libraries, furniture, inspection or sampling equipment, and equipment for publication and education functions.

Although capital budgets differ from operating budgets many governments do not prepare and maintain these budgets separately. While operating budgets must be balanced on a regular basis, capital budgets can run a “deficit”. They can be used to designate funding mechanisms for long-term financing (that is, to borrow money). Using multi-year planning also allows for stability of regulatory action, as long as new burdens are clearly identified in advance and some flexibility is allowed.

It is desirable that resources for dealing with new or unexpected regulatory burdens become an integral part of the budget, though assessing the need for such resources is not always easy. Most new burdens derive from new legal obligations and, where applicable, some focus will be given to those dealing with obligations taken through multilateral environmental agreements (MEAs). “New” burdens can also arise from emergency situations. Where these are minor and repeated, they might be viewed as predictable and factored in the budget. However, while dealing with major accidents puts a lot of pressure on inspectorates, expenditure related to such activities are not predictable but they can be significant.

### 2.3 Budget planning and approval procedures

Regulatory and enforcement authorities have different levels of influence/discretion in budget planning and approval. In some countries, it is simply a budget allocation from their Ministry of Finance; in others, information on needs is provided for the budget process, though the government still decides on the budget. Some specialised agencies may also have revenue raising powers that give them certain autonomy from central budgets.

Some variation exists as to who is involved in setting the regulator's budget, but there are many common elements. Usually, the determination of the budget begins with an internal assessment of future budgetary requirements. Preparing robust budget proposals is the first step in safeguarding against budget cuts. In this regard, a proposal is designed to show:

- Overall work volumes and costs of key inputs;
- Allocations of budget by tasks;
- Benefits from services;
- Costs compared to prior years (and sometimes to a similar activity in other agencies).

Usually, the budget proposal is accompanied by a short description of the objectives of the competent authority, its tasks and duties, and plans for improving efficiency and achievements of the past year. Where performance-oriented budgeting is used, the budget proposal must be accompanied by relevant performance (output and outcome) indicators. Stressing benefits from environmental compliance assurance will be particularly important to safeguard against budget cuts.

Draft budget proposals are then discussed, amended, and potentially approved by the Ministry of Environment (or equivalent government agency). This occurs either where the specialised agency is part of the ministry or where it is an independent body reporting to the ministry. The budget then forms part of the overall ministerial budget for approval by the Ministry of Finance, government and parliament. In some countries, the Ministry of Finance can be significantly involved in the debates on budget determinations.

Within the framework of multi-year budget planning procedures, two parallel procedures - "top-down" and "bottom-up" - may be used. In the "top-down" route, government sets priorities and budgets for the activities of ministries. Parallel to this the various departments of the ministries estimate and approve their own budget ("bottom-up" approach). If this conflicts with the "top-down" approach, problems are solved by adjusting the priorities and sometimes by budget shifts or the approval of additional budget.

There is often a *de facto* and sometimes explicit negotiating process during budget approval, with a request made for budget increases, and with the final agreement often less than the request. In some cases, the ministry checks the demands through the use of a consultant, and assesses whether efficiency gains can be made that allow a reduced budget increase to be sufficient for the increased tasks at hand. The flexibility of making adjustments within the approved budget can vary. In some cases a total sum is approved and the regulator has the freedom to change expenditure across budget lines as it deems necessary. In others, the budget may be approved along specific budget lines, so that external approval is required before the concerned agency can move funds across budget lines.

The process described above presents a “rational” view of budget approval. However, resources are always limited and inspectorates face competition from the other demands of government. This competition can be found within the environment ministry as well as across government functions more widely. Where competition occurs, efforts are made to reach a rational compromise.

Political contexts can have impacts not specific to the environment. This is obviously the case where governments are elected with sweeping “cost-cutting” agendas. However, there is also the potential for political priorities to exercise a positive impact. For example, wider political pressure on raising the profile of environmental protection within the new EU Member States and candidate countries raised the status of permitting authorities and inspectorates within the general budget setting agenda of governments.

## **2.4 Effective use of budgets**

Performance depends not only on the amount of money that is available. Managers have the challenging task of organising the work in such a way that, with the finances available, the work is done as efficiently and effectively as possible. One element of this approach is creating high confidence among stakeholders (including Ministries of Environment and Finance) that budgets will be managed effectively by the inspectorate. This may safeguard against budget cuts. This requires accurate procurement and accounting procedures. This refers not only to expenditure on equipment, but on how staff time is allocated, as staff costs account for the majority of expenditure.

Various measures can be adopted to demonstrate that budgets are used prudently. Some examples include:

- Setting targets to measure financial performance;
- The assignment of authority and responsibility for specific budgetary functions to selected managers;
- Restricting authorising disbursement of funds, payment of salaries, pensions, creditors, and expenses to a limited number of high-level officials;
- Installing modern computerised financial accounting, payroll, and fixed asset register software systems to underpin the internal financial controls;
- Outlining detailed procedures for engaging consultants;
- Regular reviews by the Management Board of periodic and annual financial information, and reports that indicate financial performance against budget.

External auditing is a critical element not only in ensuring greater confidence in budget management but also in ensuring the confidence of industry and public stakeholders. The main function of external audits is to ensure that those outside the inspectorate (environmental ministry/agency, wider government, industry, public, etc.) have confidence in the budgetary management of the inspectorate. This is important to ensure that future budgets are maintained in that the organisation is seen as responsible. Audits can also be used pro-actively to demonstrate funding problems, *i.e.* where there are insufficient funds to carry out particular tasks. The audit, therefore, provides an independent voice to argue for additional funds to deal with budget deficits, which is more powerful than the inspectorate asking for additional funds on its own. There can also be the use of external audits to explore the efficiency of activities and assess the need for budget increases.

## 2.5 Scenarios for closing the financing gap

Several solutions can be used to tackle budget shortfalls. These include:

- Linking budget planning with activity planning and carrying out efficiency analysis, *i.e.* assessing costs in comparison with the benefits of services provided to society, to define where costs can be reduced or services improved. Ideally, such assessment should be launched as an internal standard procedure before external parties request such an analysis;
- Reviewing past experience in the case of systematic shortfalls in budgets and their reasons in order to develop contingency plans. Early projection of needs for additional resources should be used to facilitate budget planning. A good practice is tracking likely future developments of the regulatory framework, the changes in the profile of the regulated community, and any kind of other “new burdens”;
- Establishing a hierarchy of tasks within the inspectorate for cases where re-allocation of budgets between tasks, or work programme revisions, is necessary. Designating senior-level management structures responsible for prioritisation in the case of budget shortfalls should help to ensure transparency of such decisions within the organisation;
- When cost-effective, outsourcing some tasks (for example, emissions and ambient monitoring, laboratory analysis) to external contractors should be considered;
- Encouraging greater involvement of industry in compliance monitoring and other stakeholders in creating deterrence and compliance promotion as a means to reducing budget needs. This could include, for instance, promoting self-monitoring by industrial operators, greater reliance on environmental management systems, and application of information-based instruments (such as industry’s performance ratings);
- Citizens’ involvement in compliance monitoring and detection, creating deterrence, and extending public pressures on serious polluters should be promoted as complementary to government compliance assurance actions.

Whatever solution is chosen, political support and legal changes are needed for them to materialise. It is most likely that political support will be earned only if the actual benefits of regulatory programmes to the environment, society, and the economy are demonstrated.

## 2.6 Funding sources

Major sources used to finance regulatory and enforcement activities include: (i) government budgets (central and local budgets [these can include environmental taxes/charges and resource use fees collected by the Treasury from operators]); (ii) administrative fees (including permit and/or inspection fees) and services (*e.g.*, for sampling and laboratory tests) paid to the budgets of environmental enforcement agencies; and (iii) recovery of remediation measures and voluntary contributions, including international grants and private donations.

The use of various sources of funding will depend upon the principles adopted in a given country. Many countries, especially those that have achieved steady financing, follow strictly the approach of state funding to avoid conflicts of interest and perverse incentives. However, in many countries there

appears to be scope for developing other funding mechanisms, notably permitting and inspection charges, and laboratory and testing services based on the cost-recovery principle.

The risk of upsetting the more readily accepted *status quo* with the introduction of changes in funding policies does therefore pose a problem to the government and/or inspectorates. Hence, transparency in undertaking such a change is critical, in order to inform those affected about the advantages and disadvantages. With any change to funding/charging, there are always likely to be winners and losers. If charges are altered so that larger companies or those posing greater risks pay more, then they are likely to resent this. A rejection of a charging system, similarly, is likely to result in a requirement to increase government revenues elsewhere. Realistic rates should be set at an early stage as subsequent changes to funding policies can be difficult to impose.

Environmental authorities in the transition economies use resources from the earmarked national and regional environmental funds that are replenished by pollution and product charges or from international funding. These funds may be used to cover capital costs (e.g. the purchase of monitoring and laboratory equipment and also vehicles and information technology), develop all sorts of guidance documents, train staff, etc.. Even though such funds can significantly increase the resource base they cannot be regarded as long-term sources of funding due to the volatility of revenue but also their extra-budgetary character that often reduced the rigour of their management.

Competent environmental authorities should not be authorised to use fines as a source of funding since this creates perverse incentives to maximise revenue instead of compliance. This approach may also facilitate corruption, particularly if the flow of public payments is exempt from regular budget discipline and treasury control. For these reasons, the preferred approach should be to treat the penalties as public money subject to treasury control and to be collected by fiscal or treasury services. Exceptionally, this financing source might be allowed in the case of dramatic budget shortfalls, for a limited period and under strict provisions, ensuring transparency, accountability for public money, fiscal control, and appropriate incentives.

## **2.7 Role of organisational conditions**

While institutional profiles of competent authorities (*e.g.*, their responsibilities, the degree of institutional autonomy and decentralisation, etc.) may differ across countries, some key lessons on the role of organisational conditions can still be identified. They include the following:

- The need to adopt a form of organisation that is most appropriate for meeting established objectives. In particular, a higher institutional autonomy should be provided so that regulation and compliance assurance is delegated to a well-defined unit. This unit, however, should operate in close relation with the ministries of environment to enable links with the policy design and providing feedback on policy implementation;
- There is also a need to define the nature and degree of autonomy needed by sub-national units based on clear objectives and analysis of operating methods, and to back up delegation of regulatory functions to local public with adequate and stable funding and accountability mechanisms for both achievement of goals and budget management;
- The need to conduct structural reforms based on a sound understanding of their costs and benefits, and avoid too frequent reorganisation that may only add costs due to the initial resource-intensive phase of re-structuring;

- Reinforcing activities that traditionally were viewed as “marginal”, such as compliance promotion, and feedback to policy makers on the feasibility and enforceability of regulations.

In order to prevent the situations in which enforcement of the requirements become a lower priority in budget setting at the sub-national level, one of the following three options may be applied:

- That the responsibilities of local governments are very clearly defined in law and adequate and transparent performance assessment systems exist so that the central government/regulator and citizens can monitor how well they carry out their obligations;
- Where the central government provides grants for local authority regulatory and enforcement activities, the environmental expenditure should be ring-fenced to ensure that the budget is spent for the envisaged purposes;
- The adoption of full cost-recovery, whereby local government can recover its costs from the regulated community.

All of these solutions are often only partial in their effectiveness. However, carefully-defined objectives and the analysis of operating methods should help to define the necessary degree of autonomy needed by a sub-national agency to effectively perform its tasks. Matching autonomy with accountability mechanisms is critical.

### **3. EVOLUTION OF LEGISLATION AND INSTITUTIONS IN KAZAKHSTAN**

As explained in the previous chapter, the resource-intensity, thus the funding needs of an environmental enforcement authority (EEA), largely depend upon the scope and organisation of its work. Commonly, an increased demand for funding is the result of broadening the regulatory frameworks and diversification of functions. The current chapter discusses the institutional factors that influence the resource intensity of environmental regulation and compliance in Kazakhstan and resource allocation and management.

#### **3.1 Evolution of the regulatory framework**

By 2007, the legislation of Kazakhstan contained more than 25 environmental or environment-related laws and 200 regulations. In 2005-2007, some of these legal acts were consolidated in the Environmental Code. This allowed to partially address the legal gaps and contradictions that were accumulated over 15 year of very intensive lawmaking.

The Environmental Code – an act of 342 articles and some 400 pages – is the most important legal document that regulates all major aspects of environmental management in Kazakhstan. The Code also seeks to minimise the need for implementing regulations and advances important new concepts and instruments. For example, it mandates integrated permitting for large industry starting in January 2008. To prevent corruption, detailed inspection procedures are included in the Code. The focus of compliance monitoring shifts from governmental inspections to (verification of) self-monitoring by industrial operators. Also, regional discrepancies in pollution charge rates are resolved by introducing nationwide rates. In the Code, many other important reforms are mandated.

In parallel to developing national legislation, Kazakhstan has intensively adhered to international environmental agreements. Per total, the Ministry of Environment is responsible for compliance and enforcement of 17 conventions that entered into force in the period 1992-2007.

#### **3.2 Profile of the regulated community**

Simultaneously with regulatory developments, the structure of the regulated community in Kazakhstan has evolved from relatively homogenous, with a handful of large state enterprises, towards heterogeneity and numerical prevalence of Small and Medium-Sized Enterprises (SMEs). The number of SMEs currently exceeds 200 000 entities and their number is expected to continue to grow. At the same time, the number of large enterprises seems to have stabilised around two thousand.

For regulation and control purposes, enterprises are divided into four categories based on the concordance with risk for public health. The category I enterprises are under the direct jurisdiction of central authorities; other categories are regulated and inspected by the territorial departments of the central environmental authority.

**Table 1. Number of registered legal entities in Kazakhstan (2003-2006, as of 1 January of the respective year)**

Category	2003	2004	2005	2006
Small	170 108	177 334	195 707	213 347
Medium	10 674	10 700	10 676	11 512
Large	2 014	2 011	2 026	2 049

Source: Statistical Yearbooks of Kazakhstan, 2003-2006.

Large facilities and their impacts are pretty well known. The large industry remains, according to MEP data, the greatest contributor to pollution. For instance, 17 enterprises are responsible for 72% of air emissions in the country. The environmental significance of SMEs is analysed to a very limited extent while they predominate as a number and more than half of them belong to sectors with potential environmental impacts (see Table 2).

**Table 2. Number of legal entities by sector, as of 1 January 2006**

Sector	Small	Medium	Large	Total
Agriculture, hunting and forestry	11 173	833	267	12 273
Fishing, fish breeding	364	15	4	383
Mining	1 271	112	76	1 459
Manufacturing	16 563	842	315	17 720
Production / distribution of electricity, gas and water	1 324	203	117	1 644
Construction	23 089	593	163	23 845
Trade, repair, personal and household goods	76 074	585	71	76 730
Hotels and restaurants	2 624	83	17	2 724
Other sectors	80 865	8 246	1 019	90 130

Source: Statistical Yearbook of Kazakhstan, 2006.

There is no common database where information on SMEs can be stored and analysed. This makes inspectors' work more difficult. To a certain extent, inspectors rely on fiscal authorities to provide them with information on new enterprises (which is collected by these authorities for tax purposes) but this communication channel does not seem to always function properly and timely. Compliance patterns within various segments of the regulated community and factors that influence compliance are even less studied.

At the same time, environmental authorities consider that they have sufficient information about the regulated community and a satisfactory level of interaction with governmental partners, e.g. with fiscal authorities, for receiving timely data on new enterprises. Commonly, the environmental authorities keep a file for each enterprise that includes permitting documents, inspection reports and related materials for the last 5 years, information on sanctions, and the official correspondence.

Data on waste dumps (authorised and illegal), pesticide warehouses, and toxic waste disposal facilities are quite scarce and an inventory is under development. Electronic means for gathering, stocking, analysing, and sharing data on the regulated community are not used.

### 3.3 Mandate and organisational structure

The Committee of Environmental Regulation and Control (CERC) is the key authority mandated to establish regulatory requirements for individual facilities and ensure compliance with these requirements. The scope of the work of the Committee covers air and water quality, municipal and industrial waste, radiological conditions, mining and soil and biological resources protection.

#### **Box 1. Mandate of the Committee of Environmental Regulation and Control**

The main functions of the Committee, among others, are:

- Conducting expert evaluations of any proposed activities with a potential environmental impact;
- Establishing facility-specific requirements through permitting procedures;
- Ensuring the compliance of the regulated community (both state bodies and the enterprise sector, regardless of their form of legal ownership) with environmental legislation in the area of air, water and biodiversity protection and waste and land management;
- Enforcement and implementation of the national legislation with regard to the use of mineral resources (throughout all stages of their use, including geological surveys, extraction, processing, elimination and conservation);
- Improvement of the system for development and implementation of effective methods for control and compliance activities;
- Coordination of the activities of the national and local executive bodies with responsibilities for enforcing environmental legislation;
- Cooperation with NGOs on issues related to compliance with environmental legislation;
- Preparation of assessment of the results of the control and enforcement activities carried out by CERC staff;
- Ensuring the running of analytical laboratories on the basis of a unified methodological basis;
- Preparation of analytical reports related to results from government control in the country.

An important responsibility for the CERC staff is work with users of natural resources and provision of feedback on different legal initiatives launched by the MEP. Considerable efforts have been made to work directly with natural resources users. Several memoranda of understanding and cooperation have been drawn up with resource users and local authorities. Experience has shown that these new tripartite agreements yield results that benefit the environment. In addition, the CERC staff at both national and local level also work with enterprises to introduce self-monitoring programmes as a way to increase the efficiency of control activities. As of 2007, such programmes are part of the permit conditions and one of the tasks of the CERC staff is to verify their quality. In addition, the draft Strategic Development Plan of the MEP for the Period 2009 – 2011 envisages that by 2010 at least 55% of the large enterprises will have introduced integrated systems for self-monitoring and that environmental authorities and NGOs will have had an interrupted access to these enterprises.

The mandate for environmental regulation and compliance assurance, specific instruments and some of the procedures are spelled out in the Environmental Code. Other relevant framework laws include, among others, the Water Code, the Forestry Code, the Land Resources Code (all adopted in 2003), the Law on Industrial and Municipal Waste, the Law on Sanitary and Epidemiological Welfare

of the Population. These laws clarify the functions and powers of the various levels of state administration, their relations, and the respective jurisdictions of the central and local authorities.

Two other Codes are of direct relevance to the operations of environmental enforcement authorities, namely:

- The Code of Administrative Offences: the Code has a special chapter on environmental protection and the use of natural resources and defines the type and level of administrative sanctions for violating environmental legislation. The Code also envisages sanctions for the provision of false information and data required by the state authorities.
- The Criminal Code defines the cases which qualify as criminal cases and the respective liability for environmental crimes.

The Committee is a specialised governmental agency (*uchrezhdenie*), with an autonomous status that works under the umbrella of the Ministry of Environmental Protection (MEP) of Kazakhstan. The CERC was established in November 2007 having as precursors two bodies – the former Committee for Environmental Control (CEC) and the Department for Environmental Regulation. In its turn, the CEC was established in 2004<sup>3</sup> on the basis of the MEP's Department for Environmental Control. This cascade of structural reforms follows the Presidential Decree N 1449 of 29 September 2004 on Measures for Further Improving the System of Governance of the Republic of Kazakhstan that required separation of policy making functions from regulation and enforcement.

The Committee has its own stamp and a corporate seal bearing its name; it can sue and be sued in a court of law on behalf of the government. At the time of review development, the Committee had no property and budget of its own and no bank account. In January 2008, this situation changed and CERC was allowed to have its own accounts in the Treasury. CERC activities are financed through the republican budget and are an integral part of the Ministry of Environmental Protection budget. Organisationally, the administrative work and procedures of the Committee are further defined in the Regulation on the Committee for Environmental Regulation and Control.

The Committee Chairman is appointed and dismissed by the Prime-Minister upon proposal by the Minister of Environmental Protection. The Chairman is supported by Deputy-Chairmen. Deputy-Chairmen are appointed and dismissed by the Minister of Environment upon agreement with the Committee Chairman. The number of Deputy-Chairmen is determined by the Government, there are currently three Deputies in the Committee.

The Chairman organises and manages the work of the Committee and is personally responsible for the implementation of the tasks assigned to the CERC by the government. More specifically, the Chairman is responsible for:

- determining the responsibilities of her/his deputies and the heads of divisions in the Committee;
- appointing and dismissing staff at the central level of the CERC as well as proposing to the Minister of Environment to appoint and dismiss the Heads of the local environmental Inspectorates (oblasts, cities of Astana and Almaty) after consultations with the Heads of the territorial departments of the Ministry of Environmental Protection;

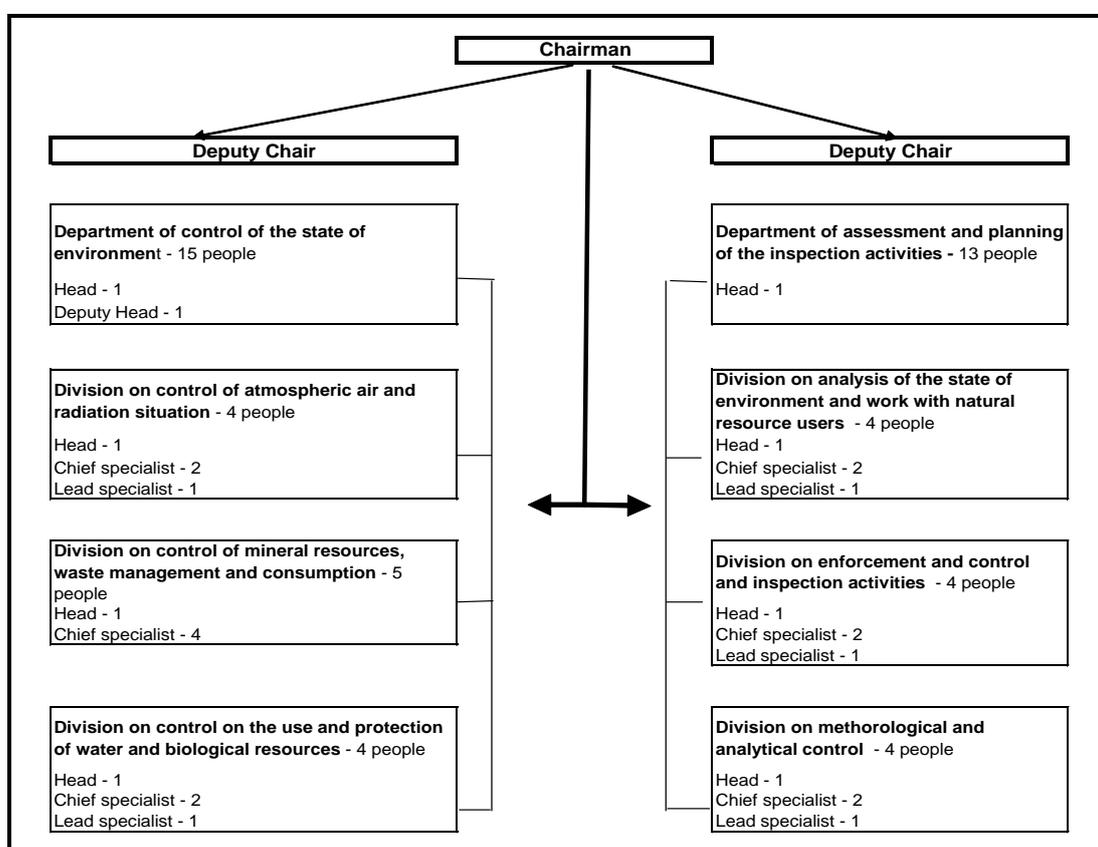
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<sup>3</sup> The creation of CEC was legally backed by Government Decree N 1126 of 29 October 2004. This Decree endorsed the CEC Statute, defined the CEC structure and its main functions and rights.

- within the limits of her/his competencies, issuing orders, approving statutes of local Environmental Inspectorates;
- within the limits of her/his competencies, representing the CERC in government bodies and organisations in accordance with the legislation in force;
- making proposals to the Minister of Environmental Protection on the creation and liquidation of the structural bodies of the Committee.

In 2007, the CERC central office staff were divided into 2 main departments: the department of control of the state of the environment and department of assessment and planning of inspection activities. Figure 1 shows the division of staff between the two main departments and respective divisions.

**Figure 1. Administrative structure of the Committee for Environmental Control**



Since 2008, a new structure and staffing policy of CERC has been in force. The current structure contains 5 departments. These include: department for issuing permits and licences (with 12 staff members), department on environmental expertise (9 staff), department on state environmental control (13 staff), department on regulation of waste management (7 staff) and administrative and legal department (12 staff). The latter includes 3 staff that will work on financial issues of the Committee. The categories of chief and lead specialists will be replaced by chief experts and experts, respectively.

At a local level, regulatory, inspection and administrative enforcement were carried out by 16 territorial environmental departments in all oblasts and the cities of Astana and Almaty, which in 2008 were reformed into 8 territorial departments. These departments are separate legal entities and report directly to CERC which provides guidance and training to territorial departments and assesses their performance. Territorial environmental departments have their separate budgets.

Additional administrative reforms were prepared in 2007 that affected the CERC functional responsibilities. The MEP management believed that it was best to take most of inspection activities away from CERC staff at a central level and leave them with the responsibility for developing legal and methodological documents and guidance. This is not necessarily a good idea as this may lead to CERC staff losing touch with reality and rely strictly on information provided by local inspectors. Participating in inspections provides central staff with the opportunity to verify the enforceability of different laws and regulations and the applicability of various methodological guidelines developed at a central level. Equipped with this knowledge they can contribute to improving the legal framework as appropriate. In addition, local inspectors may not necessarily have the capacity to conduct alone inspections in larger industrial enterprises.

### **3.4 Activity planning**

To plan its activities, the CERC prepares a Work Plan for each year. The Work Plan is approved by the Committee Chairman. As part of the Work Plan, the CERC Chairman approves twice a year a schedule of inspection activities. According to the 2006 schedule of inspections, there were 23 site visits planned with participation of inspectors from the national level and over two thousand overall.

In planning their work, CERC staff constantly face a number of challenges which make the process less predictable. About 50% (or even less) of inspectors' time is spent on actual inspections. On the one hand, coordination with other agencies is not always easy and may take more time than expected (e.g. obtaining warrants from the Prosecutor's office). Inspectors have to respond to signals from the public authorities and citizens on an *ad hoc* basis. The growing number of regulated issues coupled with an increasing number of small and medium enterprises significantly impact inspectors' workload.

This increasing workload is not matched by an adequate increase in the number of staff and subsequent resources. Staff numbers are only marginally increasing which hampers effective state control. This also makes planning of necessary budget resources less adequate and the CERC staff need to make compromises with the quality of inspections in order to fit their workload into available funds.

#### ***Inspection workflow***

Prior to the visit, the compliance history and all permits of the visited enterprise are reviewed. Inspectors develop site-specific inspection checklists. As enterprises which will be checked are given sufficient notice, both inspectors and NGOs consider that this time is used by many enterprises to reduce the intensity of production and decrease the negative environmental impact just prior to the inspectors' visit.

The group of inspectors usually consists of 3 people and the inspection lasts for maximum 5 days. Usually, CERC focuses on big enterprises/polluters, such as oil, metal processing, machine-building, district-heating facilities, wastewater treatment plants. Enterprises can be checked only once a year and only after sufficient notice is given to them (at least 20 days). The legislation does not allow unannounced visits. Inspections can be single-medium or integrated and the latter are reported to be

the most common. Staff from the central and local offices often conduct joint inspections with other authorities (15-20% of all visits). There are certain enterprises which are checked regularly (every year).

During site visits, inspectors are supposed to check environmental documentation and actual compliance, assess environmental protection measures, verify equipment, and make sure that pollution and user charges are calculated and paid correctly. In reality, many inspectors focus on verification of relevant documentation and end-of-pipe devices. Capacity to assess production processes and environmental performances is quite limited due to a number of factors: poor knowledge of production processes, lack of practical experience, limited availability of monitoring equipment.

A large part of inspectors' work is focused on preparing reports from site visits. An inspection record usually stipulates the violation(s) revealed, the legal requirements that have been violated, the cause(s) of non-compliance, and the corrective action(s) prescribed. The paperwork related to inspections is considerable. This includes the registration of the inspection with the Prosecutor's Office as well as reporting back to this office after the site visit. This paper work can take up to 25% of the overall time allocated to conducting site visits. Mass media are often invited to disseminate the results from inspections.

Unplanned inspections are estimated to represent about 20% of all annual inspections carried out by CERC staff. These are a result of signals made by members of parliament, prosecutor's office, regional authorities, mass-media, individual citizens.

Although the Environmental Code encourages public environmental control, there seems to be little interaction of the CERC staff with environmental NGOs which can effectively support state environmental control. Involving civil society in specific activities, for instance in compliance monitoring of small enterprises, can help somewhat reduce inspectors' workload.

### **3.5 Staff management**

There were 31 staff members in the Committee for Environmental Control at a national level in 2007. With the new CERC structure, their number increased to 47. This apparently significant increase just reflects the merge of the former CEC with the Department for Environmental Regulation thus also an increase in the scope of work. There are few additional positions opened particularly in relation to the creation of the new administrative-legal-financial department. The CERC offices at a local level in 2007 employed about 800 staff.

#### ***Categories of staff***

Staff are divided into political and administrative civil servants. The political civil servants are the Chairman and the Deputy Chairmen of the Committee. The rest of the staff are administrative civil servants. Their work, obligations/rights and salary levels are regulated through the Law on Civil Service (adopted in 1995 and most recently amended in July 2005) and the Labour Code (May 2007). Administrative staff are further divided into different job categories and each category has a grade assigned to it.

There are five categories in the CERC central office: head of department, deputy head of department, head of division, chief specialist and lead specialist. The new CERC structure introduces three levels only: head of department, chief experts and experts. The salary levels are determined in relation to the grades, according to the nature of the work performed with the number of years as a civil servant as the most important variable in arriving at the employee's actual salary level. Over the

past several years, the pay of the staff of the Committee has increased on average by about 50%. The President and the government have committed themselves to providing an additional increase of 30% of the civil servants salaries by 2009.

In general, Kazakhstan has made significant progress in the development of a stable and professional civil service system. An appropriate legislative framework and sound institutional mechanisms for the management of the system are in place. It is acknowledged that the Kazakh system is one of the best in the former Soviet Union region and in Central and Eastern Europe.

### ***Job requirements and recruitment***

All job categories that exist in the Committee have job descriptions which contain the major professional requirements to staff employed at a certain position. These include, among others: level of education, professional competencies and experience required for the specific job as well as functional responsibilities related to the respective position. These job descriptions were developed to identify redundant posts and eliminate these where possible thus mitigating the overall fiscal impact of the wage increase. According to these job descriptions, almost all staff hired to work in the Committee should have a high (university) level of technical, legal or economic education, work with the basic computer programmes and be proficient in the Kazakh language. Of the administrative civil servants positions of the former Committee for Environmental Control – 7 staff are required to have legal education, 3 - economic education, the rest of the staff are required to have mostly technical background.

The administrative staff of the Committee are recruited through a competitive procedure on the basis of a test of their knowledge of relevant legislation. All staff are appointed on a probation period of three months. Staff are subjected to the test of legal knowledge every three years and the results are used for determining the performance of staff members. Staff can be rewarded with bonuses, in one form or another, for good performance.

In addition, there are no individual objectives for staff members to meet on an annual basis or a semi-annual basis. Thus, there is no possibility to link performance with career advancement. This is further aggravated by the fact that “years of experience” is the only variable factor in the system. Staff performance is assessed but this is mostly based on assessing the knowledge of laws and regulations. In addition, performance is measured every three years, a situation that hardly provides any incentives to staff to improve their performance. What is more, when leaving their political posts, political civil servants can get another position without going through a competition procedure.

### ***Turnover***

Staff turnover is about 10% (and more) at a national level, and about 1-2% at a local level. For comparison, these levels, particularly at a national level, are much higher than in OECD countries where the turnover is estimated to be within the range of 1-5%. Turnover at a national level creates additional problems of recruiting and training new staff and makes control activities less efficient.

### ***Staff training***

To improve staff knowledge and practical skills, the MEP has developed training programmes. A training centre was established within the MEP structure in 2004. The centre targets both government employees and third parties, e.g. enterprise representatives. This arrangement is well-suited for ensuring the sustainability of the centre’s functioning as private sector students pay tuition fees. Training is delivered both by MEP staff as well as external experts. The training courses last up to 40

hours and cover different issues of environmental management, including changes in the regulatory framework, application of specific policy instruments, inspection and enforcement procedures. International partners (UNECE, UNEP, UNDP, the EAP Task Force) delivered several training courses. Knowledge and skills were also enhanced as part of bilateral exchange. e.g. with Norway and Canada.

Seminars and expert meetings on specific topics are often held to complement this process. In addition, professional development programmes are available in Kazakhstan through the Civil Service Academy and the Eurasian Training Centre. Whereas the former provides more academic type of programmes at a post-graduate level, the latter institution has developed a full menu of in-service training options for the civil service. While these possibilities are open to all civil servants, it is not clear how many of CERC staff have had the opportunity to do such courses.

It is commendable that the government and the MEP provide training opportunities for staff. But most of the job positions lack requirements for certain skills which are crucial in modern management systems – foreign languages and economists. Foreign languages are not required in the job descriptions. While three of the reviewed job descriptions examined actually show that staff with knowledge in economics are needed, it is not clear how many staff like this have actually been recruited. Hiring staff knowledgeable in designing compliance assurance programmes and adequately costing such programmes may help improve CERC efficiency of work which can lead to a better resource allocation.

### *Salary levels*

Salary levels are more important for senior level positions: in 2006, these were about 350 Euro/month for a head of department, about 260 Euro for a senior specialist down to about 100 Euro for non-professional staff (technical personnel, maintenance workers)<sup>4</sup>. These basic salaries can be topped by additional bonuses and allowances for annual leave, for holiday related bonuses, end-of year bonus, welfare bonuses, annual allowances for sickness recovery, welfare allowances (in the event of a marriage, birth of a child, death of a close relative), performance-based bonuses. Savings from the wage and material budget are used to provide these additional bonuses. These bonuses can increase the level of salary between 30 and 40 %, on average. However, the decisions on the allocations of bonuses and allowances are left to the discretion of managers. Bonuses are not based on a set of clearly defined and transparent criteria.

In the early stages of the administrative reform, the government was able to attract high quality staff to the services. However, the rapid emergence of the oil and gas industries have eroded the competitiveness of the civil service as an employer. While the wage increases between 2003 and 2006 are significant, they still remain low in comparison with the standards of living and they have hardly helped reverse this situation which remains true for staff working on ensuring compliance with environmental laws and regulations.

Given the rapid development of the country and the growing number of (particularly small and medium) enterprises that will need monitoring, the current number of CERC staff does not seem to be sufficient to effectively carry out the control and supervision tasks. Staff with economic and finance skills are also needed. The proposed administrative reform is likely to reduce further the number of professional staff and thus the quality of regulation and inspection.

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<sup>4</sup> Information provided by the MEP in their response to the EAP Task Force Questionnaire to Support the Assessment of Progress in Achieving the Objectives of the EECCA Environmental Strategy, September 2006.

### **3.6 Cooperation with other relevant authorities**

The year 2000 saw a number of significant administrative reforms in the country. In the area of environmental management this led to two major changes. First, the management of natural resources was taken away from the Ministry of Environment and Natural Resources and transferred to the newly-created Ministry of Energy and Mineral Resources. Second, the control and supervision functions over the use of natural resources were spread among a large number of government agencies. These agencies include, among others, the Ministry of Defence, Committee on Geology and Mining, Agency on Management of Land Resources, Committee on State Control and Supervision in the Area of Emergencies, Committee on Forestry and Hunting, Committee on Fisheries and Committee on Water Economy (all three under the Ministry of Agriculture), Committee on Sanitary-Epidemiological Control (Ministry of Health), other relevant state bodies, local bodies.

The CERC often conduct joint inspections with representatives of these authorities. The CERC also works closely with the General Prosecutor's Office as environmental inspectors need warrants before conducting a site visit.

In March 2004, a special government decision was issued to regulate cooperation among competent authorities in conducting joint inspections. This decision came to replace earlier bilateral agreements signed with individual ministries. While this decision is meant to foster better coordination, inspectors (particularly at a local level) have continued to interact mostly with selected authorities (ministry of health and emergency authorities as well as fiscal authorities and police). However, no joint inspection reports are prepared as a result of such visits.

The institutional fragmentation of environmental control and supervision activities has a number of negative consequences. Situations where joint inspections are carried out with inspectors from agencies which use the environment for economic purposes create additional tensions in the joint teams. The need to obtain warrants from the General Prosecutor's office, which sometimes takes a lot of time, may additionally complicate and slower inspection activities. All such disagreements lead to lower control efficiency. In addition, the regulated community still perceives inspection activities as too many and poorly coordinated. All these undermine CERC chances to optimise their resource base.

Due to the fact that the CERC had no budget of its own (although the new statute envisages that the Committee should have its own budget), CERC had no direct connections with the government authorities responsible for budget formulation and execution, namely the Ministry of Economy and Budget Planning. Indirectly, however, work of environmental inspectors is significantly impacted by the Ministry of Finance which is responsible for planning public revenues and collecting revenues from various taxes, charges and fines.

### **3.7 Activity reporting and information disclosure**

Internal reporting on activities in the Committee is regular: it ranges from simple reporting done on a monthly basis to comprehensive reports developed every six months or annually. There is daily reporting on activities as well. Most often performance is associated with the number of activities, such as inspections conducted, fines imposed, or production processes temporarily closed. Quality aspects of work, resources involved or results achieved are only sporadically reported.

The Order on Preparing Information and Analytical Reports on Environmental Inspections of Oblasts and Cities, issued by the CEC Chairman (Order N 14-p of 30 May 2006) regulates reporting by the territorial departments to the Committee. The Order sets the procedures for providing

information and the main elements that such reports should contain as well as the procedures for accepting the report by the Committee.

The results from the reports from all regions are then summarised and published by the Centre of Information Analysis. This report is published in 20 copies. On the basis of the report, the CEC department on the analysis of the state of the environment and work with users of natural resources prepares an Analytical Brief on behalf of the Committee Chairman. This summary report is not published on-line.

It is worth mentioning that the Committee and (the MEP for that matter) has provided a lot of information on its web-site. The most important laws, regulations and decrees can be found on-line. The Ministry regularly prepares and publishes on line Environmental Bulletins which contain plenty of information on the state of the environment in different areas in the country. These bulletins are very detailed and highly technical, often difficult to understand by non-specialists. However, no analytical and financial reports on inspection and control activities and the effectiveness of these activities can be found on the Ministry's web-page. Not even the reports on the state of the environment in the country are available on the MEP web-page. When these documents, which in principle should be public domain, were requested by the authors of this report, access to them was denied.

On the other hand, the Ministry jointly with OSCE has developed a Briefing Note which outlines the detailed procedure for handling requests for access to environmental information by citizens and citizens' organisations. This was a result of Kazakhstan's ratifying the Aarhus Convention on Access to Information. The review team however did not get an opportunity to meet with representatives of NGOs or the regulated community and to assess the actual possibilities of obtaining such information from the state institution.

Public disclosure and access to analytical information are somewhat difficult in the Committee. Mostly official legal information is made publicly available. Publishing the analytical reports in 20 copies only is a telling example. Access to and communication with staff members is equally difficult. All communication goes in writing exclusively. On the other hand, CERC staff have no access to internet which makes their work more difficult as well. Given the commitment of the Kazakh government to create an e-government, communication channels should be made easier. Public disclosure and transparency need to be further improved.

### **3.8 Data quality and performance indicators**

The CERC staff are aware of the imperfect quality of information, data and indicators they obtain from the regions which does not allow to prepare solid and comparable analysis. For this reason, there has been a discussion to streamline and improve the quality of the analysis and underlying information.

Better performance indicators are being introduced. These indicators aim at showing the link between the work of inspectors and improvements of environmental conditions in respective regions. New performance indicators include the number of prescribed corrective actions to inspected facilities versus the number of prescribed actions implemented by enterprises, the number of enterprises which have taken preventive measures and have introduced changes in their production processes because of the high probability that their non-compliance will be detected by environmental inspectors, and finally, actual reduction of air or water pollution as a result of inspection and control activities.

It will be important to link these indicators to funds spent in order to demonstrate the value for money achieved with the resources. Such indicators are much more meaningful and can help make the work of inspectors better appreciated by the regulated community and the public at large. If however the reports which will use these indicators are not disclosed to interested parties and the public at large, their effect will remain low.

## **4. BUDGET MANAGEMENT**

### **4.1 Key legal acts related to budgeting**

Financing and budget planning for all budgetary entities is regulated by the Budget Code and the annual Laws on the Budget. The Code establishes the principles and mechanisms for budget preparation and execution. It regulates the procedures and designates responsible entities for monitoring budget preparation and execution, setting reporting standards and rules for internal and external control and auditing, rules for evaluation of the effectiveness of the implementation of budgetary programmes. Transparency and accountability for decisions are clearly spelled out in the legislation. Cost-effectiveness is a major principle as well.

Several years ago Kazakhstan launched reforms in the public finance system. These reforms were consolidated in the Budget Code (most recently amended in 2007). For example, important planning and management tools were introduced, such as the medium-term fiscal framework, methodology for calculating fiscal projections, passports of budget programmes. The requirement for a medium-term expenditure framework is further detailed in a number of strategic documents, including, among others, the Strategic Development Plan of the Republic Kazakhstan 2004-2010, Medium-term Socio-economic Development Plan of the Republic of Kazakhstan 2007 – 2009, Medium-term Fiscal Policy 2007 – 2009 of the Government of Kazakhstan, national, sectoral and regional programmes. All annual budgets should be drawn up in compliance with these strategic documents.

The principles and procedures identified in the Budget Code and in various policy papers are further translated into practical decisions within the framework of the annual Laws on the Budget. In the case of violation of the Budget Code and commensurate with the degree of the violation (e.g. unauthorised use of budget funds, spending such funds for purposes other than those provided for under budget appropriations) these can result in civil, administrative or criminal penalties of relevant officials in consistency with the procedures established by the legislation of Kazakhstan.

In general, the legislation related to budget formulation and execution is extensive and follows a number of good international practices. These, however, seem to remain more on paper than implemented in practice.

### **4.2 Major actors in budget planning and control over execution**

The major actors involved in the budget management process in Kazakhstan are:

- President of the Republic of Kazakhstan;
- Republican Budget Commission;
- Government of the Republic of Kazakhstan;
- Ministry of Economy and Budget Planning;

- Ministry of Finance;
- Parliament of the Republic of Kazakhstan;
- Accounting Committee;
- The central body of internal control.

The main role of the President is to define the procedure for the development of the republican budget and report on its execution. The President appoints the Republican Budget Commission. The main purpose of this Commission is to oversee the timely and qualitative development of the draft republican budget and to develop proposals to update and execute the budget.

The government presents the republican budget and the annual report on its execution to the parliament, executes the republican budget, as well as defines the rules and principles for the proper execution of the republican and local budgets. The government establishes rules for the development and performance of branch (sector), regional and budgetary programmes, as well as evaluates their effectiveness. The government also approves the medium-term fiscal policy. It also sets procedures for conducting internal control. At the local level, the government approves the typical structure of the local government, delimits the scope, specifications and number of local agencies, as well as defines the procedures for the development of local budget drafts. It also sets procedures for consideration of local budgetary investment programmes.

The Ministry of Economy and Budget Planning drafts the medium-term fiscal policy for the government, develops the draft list of budgetary programmes according to state functions, as well as prepares the national, branch (sector), and regional programmes. It establishes the budget revenue forecasting technique, develops the draft uniform budgetary classification, oversees the budgetary planning methodology, and makes proposals on updating the republican budget. It drafts the medium-term plan for socio-economic development of the country, develops proposals for improving the system of economic planning, and forms the list of priority budgetary investment programmes.

The Ministry of Finance executes the republican budget and services the execution of local budgets. It also participates in budget revenue forecasting and the setting of priorities and objectives of state policy with respect to state budget revenues. It approves and makes changes to the consolidated plans for revenues and the financing of the republican budget.

The Parliament approves the republican budget, as well as any modifications to the budget. The Parliament approves the reports of the government and the Accounting Committee monitors the execution of the republican budget. This Committee establishes the procedure for external control over the execution of the republican budget. It develops standards for state financial control and conducts control of the republican budget.

The central body of internal control conducts internal controls in compliance with the law on the activities of entities subject to state financial control. It also reviews the reasons for violations of legislation on the performance of the republican and local budgets and performs control over the execution of decisions that follow from control activities.

It has to be noted though that there seem to be a lot of overlapping functions among these bodies and their respective responsibilities are not always clearly delineated.

As part of the public finance reforms, a State Treasury and a Treasury Single Account were established to supervise budget execution. All public money is channelled through this account. Spending budgetary units are not allowed to keep their own bank accounts<sup>5</sup>. As a result, the resources of all state institutions are now controlled by the State Treasury. An Accounting Committee (Committee for the Control of the Execution of the Republican Budget) has been set up to control the expenditure of budgetary entities.

### 4.3 Overview of the budget preparation process at the government level

The preparation of the budget is conducted in accordance with the rules specified in the Budget Code and other strategic documents. Before starting preparing the budget requests, the Ministry of Economy and Budget Planning decides on the expenditure limits for different budget institutions. This information is then conveyed to the individual ministries and on this basis, the budget programme administrator (the state institution financed by the budget) starts preparing the budget request. Each year, the budget programme administrator prepares a budget request and submits it by 1 June of the current year to the Minister of Economy and Budget Planning.

A typical budget request of the budgetary programme administrator includes:

- The list of budgetary programmes (and sub-programmes) and the amount of expenditure associated with each of them;
- A note containing clarifications on details of the budgetary programmes;
- The draft passport of the budgetary programme (sub-programme) attached to the budgetary request;
- Information on liabilities of the institution as of 1 January of the current fiscal year with required break-down of the total amount of liabilities by year, including an indication of the most important reasons for the existence of the liabilities;
- Information on the amounts due on 1 January of the current fiscal year with required break-down of the total amounts due by year, including an indication of the most important reasons for the existence of the amounts due;
- Information on receipt and use of tied grants<sup>6</sup> as of 1 January of the current fiscal year with required break-down of the total amount of tied grants according to areas on which they are spent;
- Information on receipt and use of untied grants<sup>7</sup> as of 1 January of the current fiscal year, presented in a format specified by the Ministry of Economy and Budget Planning;

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<sup>5</sup> Except for bank accounts of spending units in foreign currencies and for specific voluntary contributions granted to a state body.

<sup>6</sup> ***Tied grants*** – grants which imply an expectation that the government will need to take additional loans from donors that have awarded the grant or raise co-financing from the central budget under the corresponding budget programme in order to implement the tied grants.

<sup>7</sup> ***Untied grants*** – grants which do not imply an expectation that the government will need additional loans from donors that have awarded grants, or any co-financing from the central budget.

- Calculation of expenditures in the budgetary programmes (sub-programmes), attached to the budgetary request;
- Other information, as appropriate.

The passport present the programme's profile and consists of seven parts:

1. Value of the budgetary programme (in thousand KZT);
2. Legal basis for the budgetary programme;
3. Source of financing of the budgetary programme;
4. Purpose of the budgetary programme;
5. Task of the budgetary programme;
6. Action plan (provided in a tabular form) for the implementation of the budgetary programme; this plan shows activities according to individual sub-programmes;
7. Expected results from performance of the budgetary programme.

The budgetary programme administrator is required to submit a budget request in writing on hard copy as well as in an electronic form. The budget requests are reviewed by the Ministry of Economy which conducts an evaluation and prepares an opinion. If the budget request does not comply with the requirements of budget legislation with respect to preparation and submission, the budget request is rejected and sent back to the budget programme administrator to re-work it.

The Republican Budget Commission reviews all budget requests and the opinions of the Ministry of Economy. The Commission also reviews differences in opinions between budgetary programme administrators and the Ministry of Economy.

Based on a decision of the Republican Budget Commission, the Ministry of Economy prepares a final draft of the republican budget for the coming fiscal year and submits it to the government for review. The review and approval of the final version of the republican budget for the coming year is completed no later than by 1 August of the year prior to the planned fiscal year. The government then submits the draft law on the republican budget for the coming fiscal year to the parliament no later than by 1 September of the year preceding the planned fiscal year.

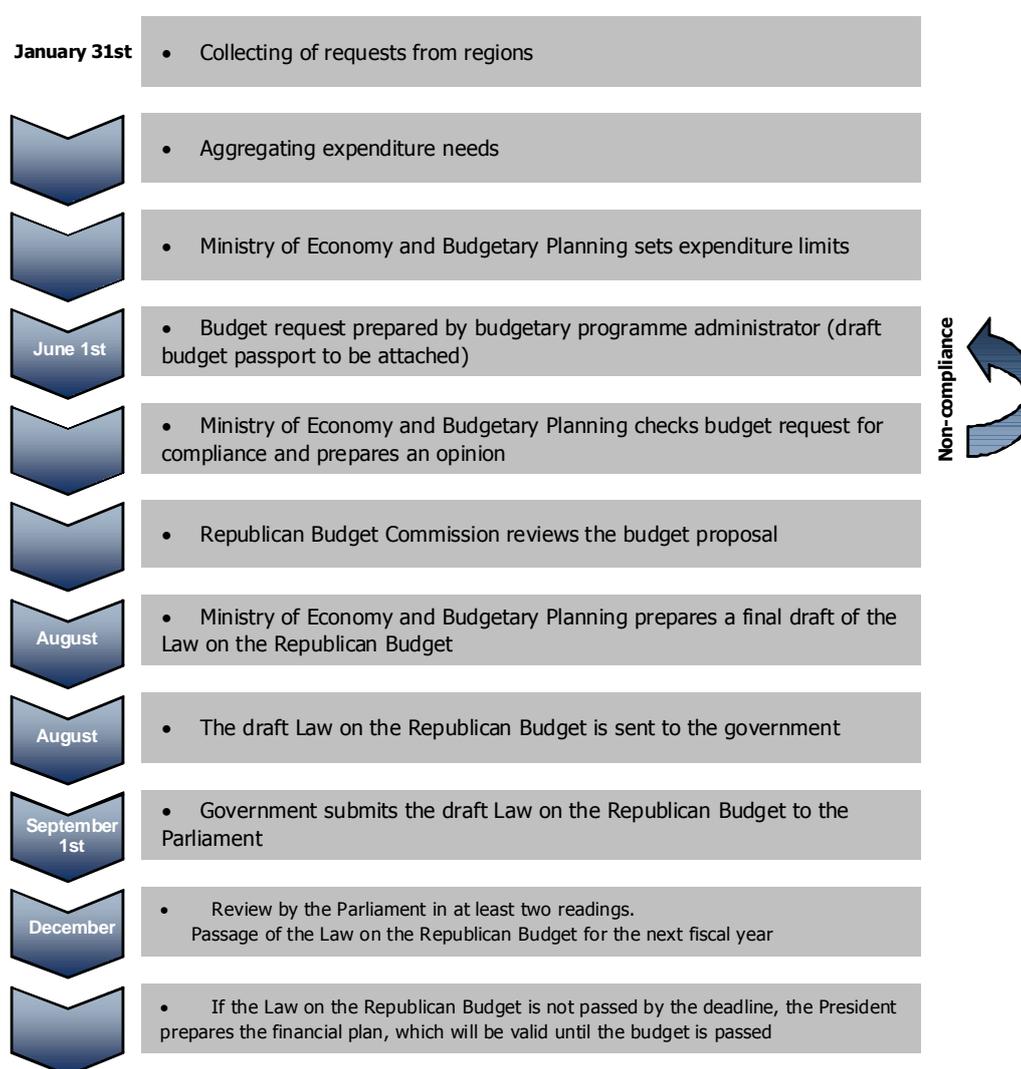
While preparing the draft republican budget law for the coming fiscal year, the government also submits the following documents to the parliament for approval:

- Medium-term socio-economic development plan;
- Medium-term fiscal policy for the coming three-year period;
- Draft passports of republican budgetary programmes;
- Justifications and forecasts of revenues to the republican budget;

- Data on the status of the national debt and sovereign guaranteed debt as of the latest reporting date;
- Clarifications on the decisions foreseen in the republican budget bill for the coming fiscal year.

The republican budget for the coming fiscal year is approved at a joint session of the houses of the parliament no sooner than after two readings and no later than by 1 December of the current year. Figure 2 below presents the flow of information and documents required in the budget preparation process (on the expenditure side).

**Figure 2. Annual budget preparation process**



In the course of the fiscal year, corrections and modifications are made to the budget through a law on certain amendments to the law on the republican budget for the respective year. While the budget draft for the coming fiscal year is under preparation, the budget forecast is prepared for a three-year period. In addition, the budget is divided into current budgetary programmes (current expenditure) and budgetary development programmes (capital investments).

#### **4.4 Budget preparation within the MEP**

The Ministry of Environmental Protection uses traditional methods of budgeting. Traditional, or incremental, budgeting implies that the next year budget is planned by adjusting the previous year budget, incrementally increasing it, usually taking the annual inflation into account.

Traditional budgeting – such as the system used for the CERC budget (which includes very little detail) – is used first of all for control purposes. Typically, the line-items spell out the level of spending allowed for specific purposes (although the CERC budget does not contain even this basic level of detail). Later in the year, any under-spending in one area cannot be reallocated to another category to supplement justified overspending. Thus, the emphasis in such systems is on control, but it is poor as a policy tool. While money is notionally spent only on approved purposes, the agency and the controlling body do not know what exactly was actually accomplished for the funds that were engaged.

Traditional budgeting is a system in which agencies are motivated to over-report their resource needs because they know from practice that the actual allocations are always much lower than actual requests. One alternative is to budget for actual results, as this is being predominantly done in many OECD countries, and then request resources to produce them. Yet, budgeting for actual results requires that the agency has conducted a thorough examination of its operations, discussed its role with stakeholders (e.g., in the case of the CERC with its line Ministry, but also with entities it controls), and developed a strategic plan to help it identify spending priorities – not only in the short-term.

Performance-based budgeting, in contrast, places the emphasis on effective policy by linking plans, measures, and budgets. This, in turn, can increase real accountability for accomplished results. Annex 1 discusses a number of modern budget preparation tools that can be considered by the Kazakh government in improving the country's budgeting practices in line with international developments.

Introducing a medium-term expenditure framework in budgetary planning is a major and important achievement as it brings together the policy and expenditure considerations in a multi-year perspective. Currently, Kazakhstan prepares medium-term (3 year) fiscal projections but has not yet introduced budget ceilings on a multi-year basis. Spending agencies are required to provide estimates for a period of three years based supposedly on sectoral spending forecasts (e.g. Environmental Protection Programme for 2005 – 2007) but these are very rough estimates and are not hard budget constraints. This can be seen in the differences in the figures between what was envisaged and the actual appropriations by the MEP for each year in this period. This implies that the medium-term expenditure framework is not effectively in place yet.

Managing for performance is another declared goal but given the budget format it is difficult to see how results are linked to resources. If CERC needs to become more visible and better understood within the government and by the public at large, it should aim to find a way to have at a minimum a sub-programme strictly related to its activities where objectives, resources and results are clearly identified and linked to each other. Currently, all these concepts and principles are more at the stage of good intentions rather than being firmly rooted in policy making.

The entire MEP budget is presented as one programme. Thus, it contains too many objectives and there are few indicators related to compliance assurance activities (formulated basically as outputs rather than qualitative outcomes). The CERC budget is invisible, it is bundled with the MEP administrative budget and the resources CERC requires are not linked to its activities. The CERC itself has only a partial impact on how its budget is formulated.

In general, the budget for upkeep of the CERC can be divided into two parts:

- Administration and maintenance costs of the CERC (current budgetary programmes);
- Costs of laboratory equipment (investment budget).

In addition, the CERC budget can also be divided into:

- Budget of the CERC central office;
- Budgets of the CERC territorial units.

The CERC administration and maintenance costs are further divided into:

- Funds for running the CERC central administrations (part of the budgetary programme (sub-programme) “Central Office”);
- Funds for running the CERC territorial administrations (part of the budgetary programme (sub-programme) “Territorial Offices”).

It can be assumed that in planning the budget, the MEP considers the usual types of capital expenditure and operation and maintenance costs. Administrative expenditures are planned for the Ministry of Environmental Protection as a whole; thus, the budget for maintaining the CERC is included therein. These amounts can be found in the functional group 10, administrator 234 (Ministry of Environmental Protection), Programme 001 (Ensuring the functioning of the state body in the area of the protection of the natural environment) – for the Central Office and Programme 002 for territorial offices. Ministry expenditures for other purposes are included in other programmes (003 – 010 – for more information, see Table 4). This situation is expected to change with the introduction of the CERC own budget.

The planning of expenditure is done on an annual basis and is closely linked with the preparation of the republican budget. Therefore, the entire budget planning process is identical to the process employed at other levels of administration that are part of the republican budget. The budget management practices, on both the revenue and expenditure side, are guided by the Budget Code and the Laws on the Budget adopted by the Parliament for each fiscal year.

The situation as described above makes analysis difficult because the republican budget contains just one entry (one budget line) for the entire administration of the Ministry, without showing any breakdown for the CERC.

Planning administrative expenditures of the Ministry of Environmental Protection is done by multiplying the average unit expenditures per employee by the number of employees at the Ministry. The average unit expenditures per employee contain direct costs of employment (salaries, social security) as well as associated indirect costs (such as maintenance of workplace, writing materials, computers, printers, and official business trips).

The system of planning of the Ministry budget organised in this manner – of which CERC is a part – is separate from the issues of quantity and quality of performed activities. For example, the budget is not directly linked to the number of conducted inspections; yet, indirectly an increase in the number of inspections conducted usually creates pressure to increase employment and thus the budget. This logic applies to all current budgetary programmes.

The formulation of a budget for laboratory equipment, however, is a bit different. In order properly to equip the laboratories of territorial units, a model laboratory has been developed which is supplied with laboratory equipment on an annual basis and this equipment is regularly maintained. Normative indicators are also approved for automobile transportation. In these cases, laboratory needs are formulated (most often by territorial departments) in budgetary requests. These requests are coordinated and collected by the CERC and then directed for further processing as part of the budget preparation.

The collected data are presented in a tabular format as “Information Note on the Availability of and Needs for Laboratory Devices and Equipment for Environmental Laboratories in the MEP Territorial Departments for 2007-2009.” This tabular information constitutes the basis for the preparation of the budget request and for further work on preparing the budget – first of the Ministry and then of the entire republic.

#### **4.6 Control (internal/external) and auditing**

The procedures for internal/external control and auditing of budgetary entities are set in the Budget Code. The Budget Code mandates two types of control: financial control and performance audits (for compliance with the legislation). The CERC does not have its own budget and its financial operations are checked and monitored as part of the control of the MEP budget.

Internal control is ensured by the management of the Ministry of Environmental Protection. Internal financial control is regularly performed by the Department of Securing Financing and Standards of Civil Service Quality. In 2008, this role was shifted to the newly-established department in CERC which has 2 experts dealing with financial and budgetary issues. The MEP prepares financial reports on its budget in accordance with the legislation in force. Budget accounting is cash-based, which means that it primarily records the receipts and outlays when cash is received or paid, without regard to when the activity consumes the resources (or generates the revenue).

As part of the internal control, all budgetary units are obliged to conduct assessment of the effectiveness of the implementation of their budgetary programmes. This procedure is similar to a performance audit. The requirements for such an audit are set in the Rules for Assessing the Effectiveness of Budgetary Programmes (Government Decree N 779 of 21 July 2004). All budgetary programmes should be subjected to such an evaluation *ex ante*, during their implementation and *ex post*. There are 4 major assessment criteria: effectiveness, efficiency, quality of rendered services and achieved results in comparison with objectives set in the respective budget passport.

The first level evaluation is conducted by the budget programme administrator (the Ministry) who prepares the reports which analyse the dynamics of the budget programme expenditure and develops recommendations for improving the programme. This evaluation also justifies the need for continuing the programme, reducing the level of budget support in the next budget year or definitively closing the programme. These reports are then transferred to the Republican Budget Commission that summarises the results and sends them to the Government. No assessment reports from this evaluation are made available to the public at large.

It is noteworthy to mention, that a Code of Ethics for State Officials of Kazakhstan was adopted on 3 May 2005 (Rules of service ethics of state servicemen). Based on this, the MEP has prepared an Ethics Code for its own staff.

The legal basis for internal control and auditing is sufficient to ensure a minimum level of monitoring the budget execution. As part of the undergoing administrative reform, the MEP is

planning to create a Service of Internal Auditing which will further strengthen the internal financial and performance control. It is particularly commendable that the Government requires assessments of the results of the budgetary programmes. However, it will be even more beneficial and more transparent if these assessments are carried out externally, including by an independent auditor, rather than by the Ministry's staff. In addition, the reports from such analyses should be made available to all interested parties.

Given that there is no specific budget programme designed particularly for the CERC, the evaluation of the effectiveness of the expenditure spent on environmental control activities is very difficult. The lack of clearly set objectives renders the assessment of effectiveness somewhat meaningless. Such a situation further dissipates the accountability for achieving or (non-achieving) stated objectives.

## 5. REVENUE, EXPENDITURE, AND DEFICIT

Preparing realistic revenue forecasts and expenditure plans is key for the smooth and effective operation of enforcement agencies. This section looks at the revenue and expenditure trends of the Committee for Environmental Regulation and Control since its establishment. It also discusses budget management practices (including budget preparation and execution) with a particular focus on the impact medium-term fiscal policy framework may have on the budget deficit of the Committee's future expenditure.

### 5.1 Revenue trends

Pursuant to the Budget Code, the sole source of financing of the activities of the Committee for Environmental Control is the republican budget. Therefore, the financial structure is single-sourced and the budget is balanced. As such, the Committee has no responsibility for revenue planning. The resources available to the CEC each year are channelled through the annual MEP budget.

Table 3 below provides a snapshot of the estimated financing of the CEC for the period 2004 – 2008. These are estimates made by the authors of the report based on expenditure allocated to the MEP (for more information, please see the section on expenditure trends). Please note that these are very rough estimates and that they are provided for information only.

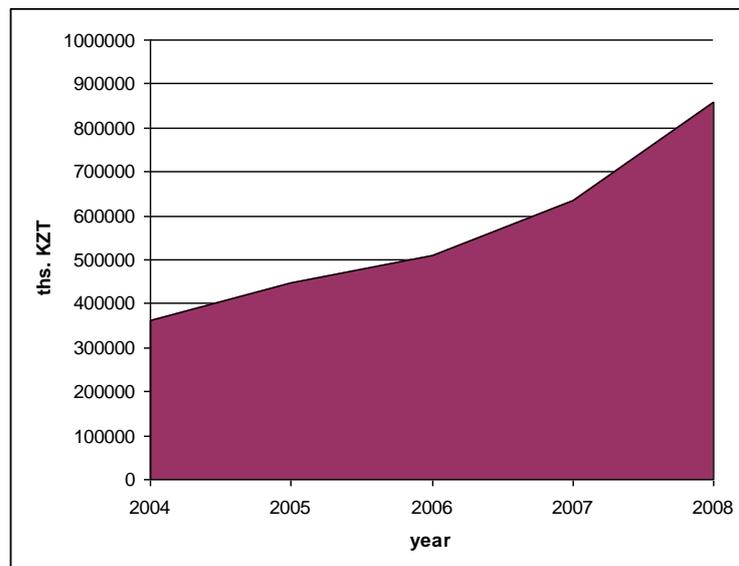
As can be seen in Table 3, resources allocated to the central and regional offices of the Committee have been steadily growing in nominal terms between 2004 and 2007. For reference, the inflation rate was about 6.9% in 2004 and 7.5% in 2005. This increase is significant, in comparison with 2004, the year when the Committee was made operational, the revenue in 2007 supposedly increased by about 60%. The section on CEC expenditure further below contains a detailed description of the problems associated with determining the level of expenditure and thus the difficulties in estimating initial revenue levels.

**Table 3. Estimated financing of the CEC, 2004-2008 [thousand KZT]**

	2004	2005	2006	2007	2008 (as per budget requested)
Estimated revenues for financing the central and territorial CEC offices	362 851.3	447 946.7	509 588.5	634 622.3	858 454.1

Source: Department of Securing Financing, MEP and the budget of the Republic of Kazakhstan.

**Figure 3. Estimated financing of the CEC, 2004-2008, [thousand KZT]**



At present, the CERC cannot use other, non-budgetary, sources of financing. In contrast, in many countries the Environmental Protection Inspectorates have different sources of financing, in which the central and regional budgets certainly play a role, but not an exclusive one. For example, Environmental Protection Inspectorates may be partially financed from administrative fees (for inspections or issuing permits) or the penalties they impose as a result of inspections.

Furthermore, they typically have well-equipped and accredited laboratories which can provide services to enterprises. Laboratories could provide sampling and laboratory tests and charge fees for this work. Such revenue could be used to cover in part the purchase of laboratory equipment and the day-to-day operations of the enforcement agency. In addition, environmental enforcement authorities in many countries are financed by environmental protection funds or similar mechanisms – at the very least with respect to equipping laboratories. In Kazakhstan, however, there are no environmental funds.

While direct budgetary transfers provide a relatively stable and predictable source of revenues, this is not always sufficient as it is often a matter of negotiations. Besides, transfers may be delayed or amounts reduced during the budget year which can negatively affect enforcement agencies' activities. For this reason, it is necessary to consider other potential sources of revenues. The current legislation does not allow the use of other revenue sources. The fundamental limitation the CERC faces with respect to financing results from the Budget Code which allows increase of the budget base of budgetary entities only within the procedures of making budget requests and lobbying for their passage. Cost-recovery of the services provided by the CERC is not really an issue.

If this constraint is released, the CERC and the Ministry can consider other possible sources of financing. Each of the above mentioned sources (fees for inspections/permits, share of the penalties imposed, fees for laboratory services, etc.) have some advantages and disadvantages. The main reason for not allowing environmental inspectors to charge and collect fees is related to the concern that such a practice may encourage corruption. The Kazakh government has made fighting corruption one of its priorities and this may well explain the choice for prohibiting this source of revenue.

Fines for non-compliance with environmental regulations imposed by inspectors are paid by polluters directly to the State Treasury. While, in principle, this should help avoid situations where authorities focus their efforts on revenue-raising, this aspect of inspectors' work is still very strongly present due to existing fiscal requirements imposed by the Ministry of Finance. The Ministry of Finance requires enforcement agencies to prepare their „plans” of fines and carefully monitor the collection of „planned” amounts of fines. This appears to be a major criterion in evaluating the performance of enforcement agencies. As a result, inspectors are under a lot of pressure to meet the planned fiscal targets. While such planning helps the Ministry of Finance to better project the revenue side of the budget, this procedure creates perverse incentives which go against the declared goals of environmental authorities which try to bring facilities into compliance through non-punitive tools (such as warning letters, for example).

## 5.2 Expenditure trends

With regard to the expenditure side, annually, the CERC has to prepare budget requests which are further aggregated in the MEP budget before being submitted to the Ministry of Economy and Budget Planning for approval.

Getting a clear idea of the CERC annual expenditure is not easy. This complication results from the fact that the CERC budget is not separate from the MEP budget. This is why, using the MEP annual budget and making certain assumptions, the authors of the report tried to calculate the CERC annual budget.

As discussed earlier, the MEP annual budget, similarly to the budgets of all budgetary entities, is presented in the form of budgetary programmes supported by a Budgetary Programme passport. Table 4 contains a list of the budgetary programmes administrated by the Ministry of Environmental Protection over the period 2004 - 2007.

**Table 4. Budgetary programmes of the Ministry of Environmental Protection, 2004-2007, [thousand KZT]**

Programme code	Programme name	2005	2006	2007
001	Ensuring the functioning of the authorised body in the area of environmental protection	1 482 607	1 739 543	1 953 388
002	Preparation of state environmental reviews of strategic, trans-boundary and hazardous sites	10 951	8 000	7 208
003	Scientific research on environmental protection	250 000	295 000	312 700
004	Construction and reconstruction of sites designed for the protection of the natural environment	676 730	860 731	900 000
005	Rehabilitation of sites designed for the protection of the natural environment	166 014	201 964	566 439
006	Conducting hydro-meteorological monitoring	1 391 100	1 667 098	2 172 739
007	Creation and development of computer information systems on the protection of the natural environment	41 000	120 674	466 641
008	Collection of observations on the state of the natural environment	479 434	519 378	602 066
009	Targeted transfers for development of regional budgets, the budgets of the cities of Astana and Almaty for the construction and reconstruction of environmental protection sites	853 357	584 266	328 066
010	Increasing paid-in capital of "Kazaaeroservice S.A."	0	0	1 291 487
	<b>Total</b>	<b>5 351 193</b>	<b>5 996 654</b>	<b>8 600 734</b>

Source: Budget of the Republic of Kazakhstan.

For example, the “001 Budgetary Programme Passport” (the central body of environmental protection), administered by the Ministry of Environmental Protection in 2006, shows that the amount of 1 739 543 thousand KZT is spent to cover the salaries of the MEP staff, including the CEC staff. Of 142 employees of the Ministry in this year, 31 are CEC staff. This proportion can be used to determine the share of the CEC in the expenditures of programme 001/001 for the central office. Similarly, for territorial offices this proportion in 2006 is 547 inspectors out of 847, the total number of employees (programme 001/002)<sup>8</sup>.

This method permits to estimate the budget for running the CEC offices and the trends that occur. The estimates are presented in Table 5 below.

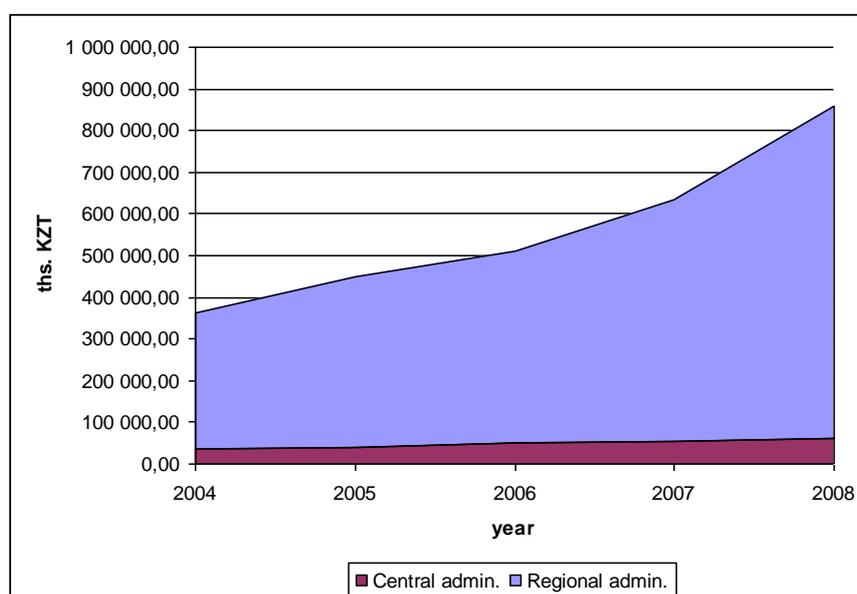
**Table 5. Estimated expenditures of the CEC, 2004-2008**  
[thousand KZT]

	2004	2005	2006	2007	2008 (as per budget request)
Central office of the Ministry of Environmental Protection 234 - 001/001	166 052.0	174 751.0	229 884.0	52 057.0	278 139.0
Territorial offices of the Ministry of Environmental Protection 234 - 001/002	492 270.0	619 656.0	694 563.0	876 281.0	1 206 080.0
Total for the central and local level, excluding sub-programmes	658 322.0	794 407.0	924 447.0	1 128 338.0	1 484 219.0
Total for programmes 234 – 001	no data	1 482 607.0	1 739 543.0	1 953 388.0	no data
Estimate for CEC – central office	36 250.7	38 149.8	50 185.9	55 026.5	60 720.4
Estimate for CEC – territorial offices	326 600.6	409 796.9	459 402.6	579 595.8	797 733.7
<b>Total estimate for CEC</b>	<b>362 851.3</b>	<b>447 946.7</b>	<b>509 588.5</b>	<b>634 622.3</b>	<b>858 454.1</b>

Source: Department of Securing Financing, MEP and the budget of the Republic of Kazakhstan.

<sup>8</sup> Data provided by the CEC and the MEP Department of Securing Financing.

**Figure 4. Estimated expenditures of the CEC, 2004-2008**  
[thousand KZT]



The method presented above makes it possible to estimate the expenditures of the CEC for maintaining its central and territorial offices. However, this methodology does not take into account the remaining sub-programmes associated with running the apparatus (001/007-100 such as costs for increasing the training and re-training of state employees, repair of offices, supply of materials, etc.). These programmes seem to cover the resources for the CEC activities as well (e.g. inspections) but it is very difficult to come up with estimates for the activity money.

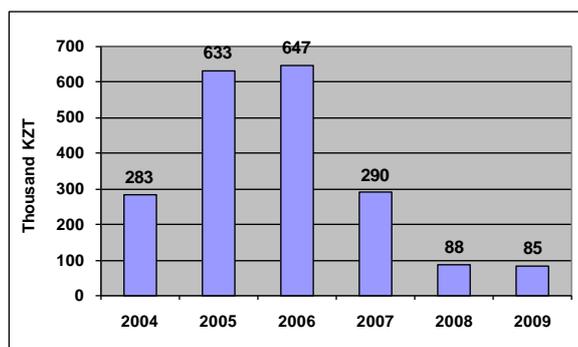
In reality, the CEC staff are responsible for preparing budget estimates related to capital investments expenditure and specifically estimating the costs for equipping laboratories. The 001 budgetary programme includes the laboratory expenditure as well. Estimating these expenditures is done each year according to the needs reported by the territorial units; this information is then used to prepare budget requests.

The Information Note on the equipment of analytical laboratories, mentioned above, prepared by the territorial units and used to support the budget requests, contains the following information:

- unit cost of goods in the years 2007, 2008, 2009 (in thousand KZT and USD);
- type of equipment and its condition (number, year of purchase, percent depreciated);
- year in which equipment fully written off;
- purchases in 2006;
- needed purchases in 2007, 2008, 2009, total;
- annex – technical specifications.

The total demand of all territorial departments amounts to 289 723 thousand KZT in 2007, 87 655 KZT in 2008, and 85 266.8 KZT in 2009<sup>9</sup>. The amounts for previous years are given in Figure 5 below. As can be seen from the chart, the investment expenditure over the period 2007 – 2009 are expected to decrease. In addition to reduced resources for laboratories, the operation and maintenance costs which have never been sufficient, may be expected to shrink as well.

**Figure 5. Demand for investments in laboratory equipment, 2004-2009**



The cost estimates show that there is an increasing trend in CEC expenditure in terms of current expenditure but the investment budget may decrease. Overall, however, these numbers should be treated with caution as in general, the expenditure planning does not seem to be adequate. It lacks precise costing of the resources needed. The internal process of allocating the resources is not transparent. As discussed earlier, the absence of a CEC-specific budgetary programme makes assessing the effectiveness of the use of the budgetary resources allocated to the CEC very difficult. For this reason, the CERC and the MEP management may want to think of more clearly dividing the resources and linking the staff time to particular tasks. While this may be a difficult exercise it is worthwhile, as it can help improve transparency and accountability for results.

In general, the CEC expenditure in 2005 and 2006 as a share of total government expenditure constituted about 0.03% (including investment expenditure at a local level). These shares may even be higher if additional administrative costs for maintaining staff are included (such as expenditure for social security or operational expenditure of the CEC offices). For the sake of comparison, the level of expenditure of the enforcement agencies in Poland (for the state and regional inspectorates) and in Ireland (the Environmental Protection Agency), which seem to have similar functions to those of Kazakhstan, were about 0.05% in Poland and 0.08% in Ireland in 2005 and 2006, respectively. These numbers however are provided for illustration purposes only, as there might still be differences in the service areas of each of these agencies.

### **5.3 Estimating budget deficit**

The method of financing the CERC – i.e., 100% financed by the republican budget – precludes any estimate of the deficit in the CEC budget. This also is a result of the manner in which the budget is created, where resources are linked to outputs (in particular the number of employees) instead of by setting objectives and then estimating the resources required to achieve those objectives.

<sup>9</sup> Source: Information Note on the Availability of and Needs for Laboratory Devices and Equipment for the Environmental Laboratories in the Territorial Departments of the Ministry of Environmental Protection for 2007-2009.

For this reason, estimating the financial gap and the additional resources needed to operate the CERC is not possible without a detailed analysis of the scope of the inspections conducted as well as related funds. Due to the lack of detailed data, no further investigations were conducted in this area.

On the other hand, some financial problems become evident when funding for equipping the CERC laboratories is analysed. Some of these problems are related to the fact that CERC needs to adopt international standards ISO 17025-2001<sup>10</sup>, required for the accreditation of the laboratories, which entails significant costs. As mentioned earlier, in 2007 alone the financing needed for laboratory equipment purchases amounts to about 290 million KZT.

According to interviews conducted with the CERC and the MEP Department for Securing Financing, a typical result of the budget process is that CERC obtains about one-fourth to one-third of requested amounts. This signals a significant budget deficit in this area; in the year 2007, this deficit is exceptionally large given the need for accreditation of the laboratories and for complying with international standards.

It also needs to be emphasised that the budget deficit should only be viewed together with the objectives that are intended to be met. If one of the objectives were increasing the frequency, scope and number of points inspected and controlled, the budget deficit given the current level of financing could be even greater.

#### 5.4 Impact of the medium-term fiscal policy and economic development

As discussed above, the budget revenues and expenditures must comply with the medium-term fiscal policy; therefore, it is worth examining how this medium-term policy may affect the expenditures of the CERC. The medium-term fiscal policy is a plan that contains less detail than the budget. As a result, not only data on the CERC, but on the entire Ministry will be aggregated with data of other budgetary entities.

**Table 6. Real change in GDP, 2007 - 2009**

Category	2007	2008	2009
Real change in GDP	109.7%	109.4%	108.9%

Source: Medium-term fiscal policy for 2007-2009.

While the medium-term fiscal policy for 2007-2009 foresees a real increase in GDP by about 9% annually (see Table 6), a forecast of budgetary expenditures is also anticipated. In general, such a forecast assumes a reduction in the share of budgetary expenditures in GDP from 24.2% in 2007 to 19% in 2009. Also assumed is that the share of expenditures on environmental protection and other actions in the same category in GDP will decline from 1.1% in 2007 to 0.8% in 2009. This is a significantly more rapid drop than other budgetary expenditures. The total share of agriculture, water, forests, fisheries, nature protection, environmental protection, and land in budgetary expenditures is supposed to fall from 4.5% of budgetary expenditures in 2007 to 4.2% in 2009.

If the share of environmental protection in aggregated environmentally-related expenditures remains at the same level, this will mean a real stagnation in expenditures in this sector because the real increase in GDP over 3 years is about 29%, while the drop in the share of these areas in GDP is about 27.3%. Given that a significant portion of expenditures of the Ministry of Environmental

<sup>10</sup> ISO 17025 is the equivalent of ISO 9000 for calibration and testing of laboratories. It applies to any organisation that wants to assure its customers of precision, accuracy and repeatability of results.

Protection goes toward salaries and because stagnation in salaries, given such a fast rate of economic growth, is not possible, this means a real drop in Ministry's expenditures on non-salary activities.

**Table 7. Expected environmentally-related expenditure as a share of GDP and budgetary expenditures, 2007-2009**

Category	2007		2008		2009	
	% GDP	Share in budgetary expenditures %	% GDP	Share in budgetary expenditures %	% GDP	Share in budgetary expenditures %
Total budget expenditures	24.2	100.0	19.8	100.0	19.0	100.0
Agriculture, water, forests, fisheries, nature protection, environmental protection, land	1.1	4.5	0.9	4.5	0.8	4.2

Source: Medium-term fiscal policy for 2007-2009.

If this situation is juxtaposed with the requirement to increase the number of inspections due to strong economic growth (real increase in the number of enterprises), this will result in a significant increase in the CERC budget deficit – assuming that the required number of inspections is conducted. The increase in the number of inspections results not only from the general assumption that economic growth will necessitate increased inspections, but also from concrete actions of the Ministry of Industry<sup>11</sup> for example which assumes that certain targets for this sector will be met between 2005 and 2015. Some of these expected results are listed in Box 3 below.

**Box 2. Ministry of Industry targets for the construction sector, 2005-2014**

For the years 2005-2007:

- reduction in import of construction materials by 380 million USD and reduction in annual outflow of currency reserves by an average of 120-170 million USD;
- reduction in material, energy, and labour intensities of production and reduction in the costs of own production by investing in the implementation of progressive technologies;
- creation of a basis for the further increase in the production potential of this industry;

For the years 2008-2010:

- ensuring supply of basic types of production of construction industry materials up to 80-90% of construction needs;
- broadening the range of effective and environmentally clean construction materials and products;

For the years 2011-2014:

- bringing about export of production and increasing the introduction of construction materials that are competitive on the external construction markets by 60 %;
- introducing into operation advanced technologies and products;
- creating up to 10 000 additional jobs.

Implementing such plans will require the creation of many enterprises, which in turn will require more inspections by the CERC, and thus an increase in expenditures for this purpose – unless a large budget deficit is expected or desired.

<sup>11</sup> Source: Government Decree N 1305 of 13 December 2004 on Adopting the Programme for the Development of the Industry for Producing Construction Materials, Products and Structures in the Republic of Kazakhstan for the Period 2005 - 2014.

## 6. CONCLUSIONS AND RECOMMENDATIONS

### **Institutional framework for environmental enforcement**

Generally, environmental regulation and enforcement in Kazakhstan has a solid legal foundation. The CERC which is the government body responsible for implementing the state policy in this area is a legally independent entity. However, the CERC is not financially autonomous, it has no budget of its own, its budget is fully merged with the MEP budget. Thus, the CERC has no decision-making powers with regard to resource allocation and spending and overall budget management.

As a budgetary entity, CERC (and the MEP for that matter) needs to comply with national legislation on public finance. Each year, the MEP prepares a budgetary programme which is approved by the Parliament. There is no specific sub-programme related to CERC activities in the Ministry's overall programme<sup>12</sup>. This reduces the CERC visibility. The passport on the budget programme does not contain clear objectives and performance indicators which may be used by the authorities to evaluate the effectiveness of the resources spent on CERC activities. The link between resources and outcomes is practically missing. Under these conditions, it is difficult to justify a request for an increase of resources for CERC.

This situation is further aggravated by the growing workload of inspectors related to the fast economic development of the country and the increase of particularly small and medium enterprises that are mushrooming and will need monitoring. Coupled with an ever-increasing number of new regulations that will need to be enforced and the slim chances of increasing the number of staff, the CERC is likely to face significant challenges in the future in terms of funding possibilities which may eventually translate into reduced control quality.

Increasing the transparency of CERC activities and financial results and broadly disseminating such information will help both the government and the public at large better understand the challenges CERC is facing. CERC stands better chances to obtain more resources from the budget if information and the lobbying based on it are better organised. At a minimum, however, even if the CERC budget is mixed with the MEP budget, CERC needs to have a stand-alone clearly identifiable sub-programme of its own which specifies the objectives, sets the performance indicators and links required resources to potential outcomes. To make this annual exercise more credible, the CERC can develop its programmes on a medium-term basis (e.g. 3 years) in order to show that it is serious about achieving results.

With this mind, and following from the institutional framework analysis, some of the major recommendations offered to the MEP and CERC management for consideration are:

- Introduce a separate, stand-alone programme on enforcement activities in the MEP budget passport and clearly indicate the objectives and results to be achieved. Use meaningful, easy to measure and understand indicators. Link resources to outcomes. This will also help increase transparency and accountability as well make CERC better appreciated.
- Give CERC staff more responsibilities to decide on the allocation of resources.

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<sup>12</sup> However, there are plans to create a separate CERC budget as part of the MEP budget in the near future.

- Hire staff with economic and financial knowledge who can support inspectors to better cost and budget their programmes. Well-justified programmes are the best argument in requesting more resources from the budget.
- Conduct a separate analysis of the effectiveness of the use of CERC resources by also inviting external evaluators.
- Discuss with the Ministry of Finance the need to lift the requirement of „planned” fines as this goes against declared environmental goals, creates perverse incentives and drives inspectors away from their main responsibilities.
- Introduce a real performance management system to evaluate the results of staff work. Introduce annual individual objectives which are linked to the CERC objectives. Develop clear assessment criteria and make them valid for all categories of staff. Carry out performance evaluation of staff on a regular basis (e.g. every six months). Link rewards to performance. Moral appreciation is often as important as financial bonuses and can help reduce staff turnover. Retaining staff is crucial for the CERC institutional memory and for the efficiency of its work.
- Increase transparency and access to information on inspectors’ activities and financing. This visibility can only help the CERC justify its requests for resource increases and make its claims better understood by the government and the public at large.

### **Budget management**

The CERC budget is aggregated with the MEP budget and is largely planned and managed by the Ministry. The CERC has one single source of revenue: the republican budget. The current legislation does not provide for other (potential) sources. As such, the CERC staff have no responsibilities for generating revenues. On the other hand, the CERC have only somewhat limited responsibilities for planning investment expenditure needs, in particular those related to the purchase of laboratory equipment.

The MEP budget planning process is linked to the preparation of the state budget and is done on an annual basis. This annual horizon does not encourage the development of longer-term programmes which can help introduce more realism in budget planning. The medium-term expenditure framework introduced by the government is still at a very early stage and is not yet fully in place. Some medium-term programme expenditure estimations are made but the estimates are purely indicative and do not bind the government in setting the expenditure commitments on a multi-year basis. The budgetary process has a lot of built-in checks and balances to control the planning and the execution of the budget but the responsibilities of all major players involved are not always very clearly specified. This makes the process somewhat clumsy and less transparent.

The MEP uses traditional methods of budgeting which favour controlling inputs and outputs rather than outcomes and results. In addition, traditional budgeting encourages over-reporting of needed resources instead of sound and realistic planning. Although there are performance indicators included in the MEP budgetary programmes, these are poorly formulated (mostly in terms of specific outputs) and do not allow a realistic assessment of the effectiveness of the use of public resources spent on CERC activities and maintenance. Modern budget planning techniques largely in use in many OECD countries offer alternatives to traditional budgeting (such as performance-based budgeting, task-based budgeting, zero-based budgeting). These need to be further studied.

As a result of the absence of a CERC stand-alone budget, it is extremely difficult to estimate the resources allocated to CERC activities. Some rough calculations show an increasing trend of (mostly current) expenditure, particularly for the local inspectorates. Investment expenditure have been growing over the last years but this trend is expected to reverse starting from 2008. The budget deficit is also difficult to estimate. However, projections made within the medium-term fiscal policy for 2007 – 2009 show that while economic growth will continue, the share of government expenditure in GDP is expected to decrease, with environmentally-related expenditure expected to drop faster than other budgetary expenditure.

Even if current resources are relatively stable and increasing, the intensive economic growth of the country will necessarily bring new challenges and additional workload to the CERC staff and with them the need for more funding. If the projected drop in environmental expenditure financed from the budget materialises, this will make the CERC operations even more difficult in the future. It is thus worth considering other options to increase available resources for the CERC. This can be achieved either by introducing new sources or by improving work efficiency (making cost-savings). In this context the CERC and the Ministry can consider the following recommendations:

- Explore the possibility to introduce fee-based services which can generate resources for environmental compliance activities. Introducing such financing sources would require significant changes in the law. Such changes are necessarily long-term in character unless political will exists to push for legal reform. The CERC jointly with the Ministry should study the experience of countries which successfully use such sources and adopt this experience to the national legal framework.
- Seek to obtain efficiency gains and reduce costs through, among others, rationalising further the compliance assurance system by improving coordination between different agencies involved in state environmental control, developing a common enterprise database accessible to all inspectors in the country, encouraging more self-monitoring and compliance promotion programmes, and working more closely with the NGOs community and civil society to promote public environmental control.
- Ensure that budget requests are properly costed and prepared and adequately supported with arguments and evidence. These need to be supported by lobbying efforts for the approval of the requests at various levels of administration accountable for preparing and passing the budget.
- Improve and implement performance-based budgeting in a more rigorous way in line with good international practices (e.g. create a link between allocated resources and actual results). This can start with preparing a strategic plan and a set of streamlined performance indicators that can be used to measure the CERC achievements supported through budgetary resources.

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## ANNEX 1: MODERN PRACTICES OF BUDGET FORMULATION

This section briefly presents some modern methods of budget formulation that are used in public agencies around the world (including in the OECD countries). Some of the budgeting techniques discussed here include among others: performance-based budgeting, task-based budgeting, zero-based budgeting.

### *Performance budgeting*

Performance budgeting (or performance-based budgeting) is a technique that introduces flexibility in the use of agency resources as managers at the agency deem required. In exchange, the agency commits to delivering certain results agreed beforehand. In government agencies, before full performance budgeting is introduced, changes in the underlying philosophy of budgeting needs to change. For example, fixed resource allocations along with programme obligations within the fixed allocation are given to agencies. At the same time, the government relaxes a certain degree of fiscal control. Thus, it could be possible to shift resources from one programme to another without inviting audits and controls. Performance-based budgeting, however, is not a technique that can be introduced quickly and without preparation. Some prerequisites include activity-based costing and performance measurement (see below). In performance budgeting, the assumption is that budgets should be based on agreed-upon outcomes instead of historical results. It also adds fuel to the important debate over whether problems can be solved simply by allocating more money or whether improvements in effectiveness can solve identified problems better.

**Performance-based budgeting** is a system of planning, budgeting, and evaluation that makes the link between allocated resources and actual results. Yet, the focus is on results instead of allocation. Agencies and their departments are responsible for meeting performance standards agreed to between the agency and the government (e.g., budgeting and planning office). It also differs from the line-item system (used at present for the CERC) in that often money is allocated in a lump-sum in order to enable agency managers to have the flexibility to determine how best to achieve results. This approach actually places more emphasis on planning, understanding stakeholders, identifying priorities, and evaluating performance over a longer time horizon than a single budget year. The line-item system enables a single-year budgeting system to continue in perpetuity; yet, the link (if any) to long-term measures is weakened because the agency does not know, nor can it anticipate, its budget allocation next year, let alone in three to five years.

This last point is evident in the case of the CERC. While it currently is requesting a larger budget allocation for laboratory purchases in order to carry out its accreditation procedures for its laboratories, it anticipates outlays for this budget line to return to a more typical state in subsequent years. On the other hand, as reported at the meetings held during the mission, the actual allocation compared to the requested amount is typically one-fourth to one-third. This is clearly a budgeting system in which agencies are motivated to over-report their resource needs because they know from practice that the actual allocations are always much lower than actual requests. One alternative is to budget for actual results and then request resources to produce them.

Yet, budgeting for actual results requires that the agency has conducted a thorough examination of its operations, discussed its role with stakeholders (e.g., in the case of the CERC with its line Ministry, but also with entities it controls), and developed a strategic plan to help it identify spending priorities – not only in the short-term.

Performance-based budgets typically have some important characteristics that distinguish them from line-item systems. These include:

- the agency has identified its mission (why it exists) and strategic objectives (how it will meet its strategy);
- the agency links strategy with budget (budget requests are based on the need to implement strategic plan and key initiatives in achieving that plan);
- the agency budget includes performance measures (indicators of results rather than outputs – in the current CERC budget system, the emphasis is on the latter, i.e., number of controls conducted rather than their outcomes);
- the agency expenditures are disaggregated into broad areas (personnel costs, operating expenses, laboratory purchases, etc.) instead of catch-all line-items such as in the case of the CERC. Still, in a typical performance-based budgeting system, the emphasis is on flexibility in making expenditure decisions.

In essence, however, budgeting is simply a part of the performance-measurement cycle, in which: 1) policies are established; 2) the policies are used to plan current and future years; 3) these plans are used to constitute the budget; 4) the implementation of the budget is used to measure performance; 5) these measures and the levels achieved are evaluated; 6) the results of evaluations are used in future discussions on policy setting; 7) the cycle is repeated. This is done for all programmes conducted by an agency. Experience from other countries shows that the best results are achieved when performance-budgeting is conducted based on programmes or functional lines instead of by department.

Implementing performance-based budgeting, however, is a complicated process and failure can happen at any step (meaning abandonment of the performance measurement system). Commitment to the measurement system is absolutely vital for the effort to be successful. Further, data collected must be used; on the other hand, too much data and massive amounts of paper, data and reports will be ignored. Indeed, the experience of OECD has shown that there are real dangers of information overload. Another threat to efforts to implement better budgeting based on performance measurement is often a lack of interest from parliament and ministers in the process. While currently there are a lot of discussions in the government on managing for results, the reality is still different. These good ideas remain more on paper than being actually implemented in practice.

### ***Task-based budgeting***

A management tool for the public sector, Task-based Budgeting (TBB) is a budgeting procedure in which before the agency prepares its budget request according to the rules, principles, and procedures in force, it prepares a detailed plan that identifies the intentions (activities and programmes) of all its departments and sections that spend public funds.

This is not, however, to suggest that the agency would have two budgets – one traditional and one task-based. TBB is not a “second budget.” It differs from a traditional budget in the way it is prepared. A TBB contains a list of tasks (programmes) together with the effects that are expected to be achieved supported by planned costs.

In turn, planned tasks contain:

- a quantitatively defined objective;
- activities that are scheduled for completion;
- timeline for completion of activities and expenditures;
- quantitative effects that are to be achieved;
- calculation of costs, including the use of own personnel, purchases and contracts for services;
- specification of who is the person responsible for accomplishing the task.

Costing these activities, however, requires a good financial-accounting system that will provide the opportunity for analysis of budgetary outlays, for comparison of unit costs, and for drawing conclusions.

An example of TBB is helpful. Consider an example of an agency with many territorial offices. To date, the expenditures of these offices were registered together instead of individually for each unit. When the agency decided to compare the costs of upkeep of each office, it turned out that in some of the offices, the expenditures per employee were several times higher than in others. These differences were found, among others, to be due to: different levels of expenditures on maintenance (e.g., heating in old buildings was more expensive than in modern ones) and poor management of personnel. The agency decided to register, among others, expenditures on building upkeep. This information, in turn, helped the agency to decide which offices should be renovated in order to reduce maintenance costs.

### ***Activity-based costing***

Activity-based costing (ABC) is a technique for identifying the full costs of service delivery, including direct salaries, materials, administration, and overhead. ABC involves costing out strategies and activities in order to determine the true cost of outputs produced by an agency. Each activity (e.g., conducting a control inspection by the CERC) is broken down into its constituent parts and its cost is determined. In this manner, a figure is determined that, for example, reveals the average unit cost of performing an activity. With this cost information, an agency is better able to prepare its budget requests and make adjustments from one programme to another (if this is permitted).

### ***Zero-based budgeting (ZBB)***

This budgeting technique requires annual evaluation of all programmes and analysis of incremental changes in a programme's output at different levels of funding. Essentially, each year each government programme starts from a baseline of zero, meaning that programmes must be justified in each fiscal year, as opposed to simply basing budgeting decisions on a previous year's funding level. The emphasis is on justification of all expenditures, and not just annual increases (as in the case in the opposite of ZBB – traditional, or incremental, budgeting). It is favoured as a means of ensuring against unnecessary spending.

Proponents of this technique cite money saving and/or quality improvements. It is also seen to increase restraint in developing budgets (discourage the “overestimation” practices that are reported by the CERC), reduce the mentality that budget units are entitled to cost increases, and to make budget discussions more substantive. On the other hand, some criticisms are that ZBB can increase the time (and thus money) of preparing a budget and needs real commitment of all sides to make it work; otherwise it can become a political tool. Another recommendation is often not to conduct ZBB in every department, every year, but rather to cycle through departments at various intervals. Also important in ZBB is for reviewers to be detached from a monetary interest in maintaining the *status quo* of an agency. Those most affected by elimination of programmes will not be objective in their review.

On the other hand, while the CERC reportedly uses ZBB, the authors found evidence to the contrary. To emphasise, while the current CERC budgeting system does involve annual budget programme submissions (albeit as part of broader programmes within the Ministry of Environmental Protection) together with justifications for them, ZBB assumes a true assessment of every item in the budget. This is not possible to do with a budget that has no items, but rather a single budget line.

On the other hand, ZBB also assumes that the agency can provide a detail of expenses for what is actually needed to accomplish a programme; this is to focus on what the programme needs to cost in order to accomplish objectives rather than on what the programme has been costing in the past. If the CERC is deliberately overstating its needs (knowing that it must do so in order to obtain a “reasonable” amount of funding for its programmes), it is not engaging in ZBB. On the other hand, if the CEC is providing an honest and substantive estimate of the true costs that are needed to implement its programmes, this means

that the other side (budgetary programme administrator) is not engaging in ZBB, because it does not take into account the real needs of the CERC. Either way, it does not appear that proper ZBB is practised.

It is important to note, however, that the recommendations on strategic planning and performance measures also apply to ZBB. Such practices should make the justification of programme costs easier to justify.

### *Other techniques*

Management by objectives (MBO) – requires regular reports on agency progress toward meeting agreed objectives. This is more of a management tool than a budgeting tool.

## **ANNEX II: THE CHECKLIST USED TO COLLECT DATA FOR THE STUDY**

### ***1. Legal and institutional basis of the Agency***

- What are the legal acts that form the legal basis of the Agency?
- When and through what formal procedure was the Agency established?
- Define the legal status and ownership structure of the Agency.
- Provide detailed description of the formal relations between the Agency and the Ministry of Environment, and other environmental bodies.
- Provide detailed description of the formal relations between the Agency and the national or sub-national administration, and other relevant institutions of public administration.
- Describe reporting requirements.
- What are the auditing requirements and institutions?
- What are the accounting methods and standards used by the Agency?
- Are there any Agency's activities subject to income tax?
- What are the main functions of the Agency, through what legal acts are they established?
- What are the Agency's top priorities, how are these defined and by whom? How often are these priorities reviewed and revised?
- Is the Agency entitled to raising debt for investments?
- Is the Agency allowed to place its temporarily free resources in financial instruments?

### ***2. Management and administration***

- What is the sovereign (ultimate) decision-making authority of the Agency?
- Describe the management system, administrative structure and all statutory bodies.
- What are the appointment procedures for different management bodies?
- Who approves the Director/Chief Inspector, for how many years, how is s/he dismissed, what are her/his responsibilities?
- Describe the decision-making flow-chart of the Agency. Please provide an organigram of the Agency.
- Specify the decision-making competencies of administrative or political bodies external to the Agency (Minister of Environment, Minister of Finance, local administration, other).

- Describe the responsibilities of different divisions within the Agency and category of staff members.
- Number of staff and qualifications.
- Procedures for recruitment and training of staff.
- What are the criteria for performance evaluation of the staff, what is the promotion and remuneration policy?
- Are the staff likely to increase in the near future?
- What is the willingness of the regional/national authorities to guarantee Agency's liabilities, if needed?
- What are the procedures and tools for information disclosure and public participation? Does the Agency have a public relations policy?

### ***3. Sources of revenue and financial management skills***

- What are the revenue sources legally allowed to the Agency (give legal basis)?
- Is the Agency's budget a part of the state (or other level of state / regional administration) budget?
- Does the Agency prepare an annual plan of revenues? What is the procedure for preparation and who approves it?
- What is the legal basis for allocation of transfers from the State/local authorities to the Agency? Are these transfers automatically renewed from one year to another? Do they result from annual negotiations?
- Does the Agency have a direct access to the State allowing it to claim additional resources in case of necessity? What is the procedure to claim additional resources?
- What are the revenue sources by category of instruments in the last 5 years?
- Are some revenue items earmarked or can they be used for specific purposes and possible debt service?
- If some revenue sources are earmarked, under what conditions can they be used for other purposes?
- If the Agency receives revenues from levies, charges, fines: who fixes their rate and base? Who collects the revenue from these charges?
- What can the Agency propose regarding these charges and fines?
- What is the degree of flexibility of revenue: Does the Agency have the ability to adjust revenue to changing needs? If yes, what are the usual adjusting methods?
- What are the collection procedures and collection rates of environmental charges / fines if the Agency is responsible for this?

- Please identify any important reasons for the scope and limitations of the funding sources used to operate Agency's activities. It would be especially useful to clarify where particular funding sources (e.g. inspection charges) have not been chosen for specific reasons (e.g. appropriateness, conflict of interest, etc).
- Are there any specific legal obligations or constraints related to financing under which the Agency operates with regard to any or all of its regulatory functions? (Obligations could include full cost-recovery for inspection activity, constraints might include activities which are legally required to be provided without costs).

#### **4. Budget planning and estimating budget deficit**

- Please list Agency's expenditure by type of activity.
- Please list Agency's expenditures by environmental sector.
- What is the budget formulation process? What guidance does the Agency receive in preparing its budget? What is the time horizon of the budget?
- What is the budget approval process? What, in your opinion, are the main strengths and weaknesses of this procedure?
- Is the budget divided into operational and capital investment budget?
- What approaches/methods/tools does your Agency use to estimate the budget (capital and operational costs)? Would you have tools (e.g. specialised software for financial accounting) that help the budgeting process? Do these approaches offer the possibility to assess the gap between resources required to achieve statutory objectives and resources available?
- How are funds allocated across budget lines (e.g. capital investment, operating costs, staff, etc.)? Please provide your last year and current year budget?
- How is regular burden calculated? What are the main budget categories that enter the budget?
- Does the Agency determine operating expenses (staff, goods and services) on its own? How exactly is operational budget determined?
- What are the major groups of polluters that the Agency controls and monitors?
- How is inspection duration and frequency determined? What is it based on (e.g. risk, history of non-compliance)?
- How is the level of effort per inspection defined? Do you have an annual plan for inspections (if yes, please provide an example)?
- How is the level of monitoring determined (in terms of frequency and type of controlled environmental site)? What is it based on (e.g. the most polluted /the most sensitive areas)? Do you have an annual plan for monitoring (if yes, please provide an example)?
- How is the rate of permit fees determined (if appropriate)?
- What is the aim in terms of operating costs progression for the coming years?

- What is the charging regime for permit charges and inspection charges (if appropriate)? How are these determined?
- What categories are included in the capital investments budget? How do you determine the need for capital investment (e.g. for assets such as laboratory equipment and transport)?
- Is multi-year budgeting applied to estimate future needs in capital investments and how is the lifetime of the assets considered in such cases?
- Are depreciation costs taken into account, how are they regulated?
- What measures do you have in place to track revenue and expenditure and check the efficiency of the use of resources (efficiency appraisal)? Which techniques do you use? Are expenditure analysed against the achievement of individual programme goals?
- Do you use performance indicators in budget tracking?
- How is the workload with other agencies divided (health, safety authorities, fire brigades)?
- Financial liquidity management:
  - Does the Agency independently manage its financial liquidity? Is the Agency's account separate from the Ministry of Environment account?
  - What is the current depository policy?
  - Is it compulsory for the Agency to deposit a part of its cash within a public bank?
  - Is the Agency able to face rapidly important liquidity needs?
  - What is the Agency's current liquidity position?

##### ***5. Addressing budget/resources deficit***

- Is there a gap between projected and actual funding requirements? If so, what measures are available to you to close this gap?
- How are unplanned burdens resulting from new regulations dealt with? How do you assess the funding implications of these additional burdens?
- How are budget shortfalls dealt with – what are the priorities in case of budget cuts?
- Can your Agency change the allocation of funds between different budget lines? Can it be done internally or would external approvals be required?
- What is the hierarchy of measures used to address a funding deficit (e.g. would you first adapt existing tools, out-source services, take other measures to raise the efficiency of work under current budget or would you try first to increase the revenue basis)?
- Is there a role for increasing the efficiency of compliance assurance activities to lower the (additional) funding needs?
- Please describe developments on any of the following for your Agency (what has been used, has it proven effective, what were the constraints in their use, or plans for future use, etc.):

- a. Raising the cost-effectiveness of compliance assurance programmes;
  - b. Reducing demand for additional funds through, e.g. redistribution of burdens, out-sourcing, increasing synergies with other authorities and programmes, etc.;
  - c. Developing additional revenue sources, such as, in particular, administrative charges and paid services.
- What are the procurement requirements and procedures?
  - What approach(es)/sources would you see as most promising for closing the deficit of financing and why? What factors will influence the choice of these approaches?