

EAP Task Force

13th Meeting of the EAP Task Force 22-23 October, 2001, Paris, France

BACKGROUND DOCUMENT NO. 7 (2001)

**International Forum on Environmental Compliance and
Enforcement in the New Independent States:
A Decade of Challenges and Developments in
Reforming Environmental Enforcement Agencies
(September 2001, St Petersburg)**

Summary of the Meeting¹

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1. This meeting was conducted in the framework of the EAP Task Force Project on Strengthening Environmental Compliance and Enforcement in the NIS. Overall project objectives are to support the NIS in: (i) reforming enforcement institutions and enforcement instruments (ii) transferring knowledge and developing skills of officials and practitioners in the NIS enforcement agencies; (iii) improving communication and co-operation between the regulatory bodies, regulated communities and the general public, including NGOs; and (iv) promoting good practices for environmental compliance and enforcement through East-East and East-West exchange of information and networking. The main project implementation tools are: NIS-wide meetings, development of analytical reports and recommendations on key elements of enforcement and compliance promotion, experience exchange and training, dissemination of information through electronic channels and by publishing relevant materials in English and Russian. The NIS Environmental Compliance and Enforcement Network, established in 1999 in the framework of the EAP Task Force, serves as main vehicle for the implementation of project activities.

International Forum on Enforcement and Compliance in the NIS: A Decade of Challenges and Developments in Reforming Environmental Enforcement Agencies

17-19 September, 2001, St. Petersburg, Russian Federation

Summary of the Meeting

1. On 17-19 September 2001 officials and experts from New Independent States (NIS), countries of Central and Eastern Europe (CEE) and members of the Organisation for Economic Co-operation and Development (OECD) met in St. Petersburg, Russian Federation to discuss the framework and targets for institutional development of the NIS enforcement agencies. This discussion was based on experience existing in NIS, OECD and CEE countries. Meeting participants initiated the preparation of common principles for effective environmental enforcement in the NIS. The current report highlights the main elements and conclusions from plenary presentations, small groups work and decisions on the follow up activities.

2. The meeting was hosted by the Ministry of Natural Resources of Russian Federation and its Department for Natural Resources for Northwest Region. The Dutch Government provided the financial support. The meeting gathered members of the NIS Environmental Compliance and Enforcement Network from Armenia, Belarus, Georgia, Kazakhstan, Kyrgyz Republic, Moldova, Russian Federation, Tajikistan, Ukraine and Uzbekistan at the level of key decision-makers or principal experts. The participation of Ms Nino Chkobodze, Minister of Environment of Georgia, and current Co-Chair of the EAP Task Force, demonstrated that environmental enforcement in the NIS is receiving a higher profile as one of the aspects in the process of environmental policy implementation.

3. Country briefs and presentations that summarised the enforcement systems in the NIS supported the discussions in plenary and small group sessions. The experience from the OECD countries were reflected either in country specific papers from Sweden, Poland, the Netherlands, the United Kingdom and the United States of America or in a comparative analysis of enforcement systems in the European Union (see Annex 1).

4. An intensive exchange of experience, brainstorming and discussion in small groups and plenary sessions led to identification of a number of proposals for common goals and basic principles in organising environmental enforcement in the NIS. Among many principles with a specific character, which were evoked during the meeting, the following ones might be considered as overarching:

- Environmental quality should be the ultimate goal of enforcement agencies rather than the process of compliance control and enforcement *per se*. This implies changing the traditional focus, which used to be put on such performance indicators as the number of inspections, the number of detected violations, penalties and violators brought to compliance, or the level of imposed and collected fines. Although the state of the environment depends upon many other factors than inspectors actions, the positive environmental effect of enforcement efforts should be considered while assessing the institutional effectiveness;
- An integrated approach towards environmental media should be progressively applied in working methods and reflected in organisational structure. This should help to avoid the transfer of pollution from one media to another one, prevent pollution and reduce waste generation, as well as help to decrease administrative burdens and compliance costs, and

improve the permitting and inspection process. The integrated approach should be accompanied by establishing better links to other phases of regulatory cycle (e.g., environment impact assessment, environmental expert evaluation and permitting);

- A right balance of command-and-control and incentive-based approaches should be achieved, and deterrence of environmental violations should be a priority over the ex-post response; in other words, prevention is better than cure;
- The enforcement powers should be proportional to responsibilities and appropriately distributed between central and local enforcement agencies. This principle is extremely relevant while decentralising enforcement or assigning new responsibilities;
- Environmental requirements should be realistic and fair, so as the rights and interests of the regulated community are respected. If industry representatives see that the requirements are technically feasible and not excessively costly, it is easier to pursue them feeling committed to meet the limit values decided on;
- Dialogue with the regulated community and the general public should be improved and serve the purpose of an increasing compliance. Relations with the regulated community should aim to explain and clarify environmental requirements and find more effective ways of compliance, while the better relations with the public and NGOs should help to engage them in identification of violations, as well as compliance promotion;
- Enforcement agencies should act with transparency, integrity and professionalism. They should not be exposed to the impact of vested interest. A higher institutional authority is an important prerequisite for this. However, moral and material stimuli for inspectors play a fundamental role. Regular staff training, appropriate facilities and improved financial support also are instrumental in respecting this principle;
- Partnership relations with main governmental and non-governmental stakeholders should be based on information sharing, mutual respect and trust. To this end, a feedback and interaction mechanism should be put in place. Although stakeholder interests are worth taking into consideration, they should not be put above the law or available resources;
- Performance assessment should be part of the management cycle, and feedback to law- and policy-makers should be regularly provided. Currently the NIS inspectors do not participate adequately in the policy and legislation development, and their practical knowledge is hardly taken into account during the process of regulatory reform;
- The principle of continuity and consistency of institutional reforms should be used. During the last decade, structural changes of the enforcement agencies were occurring in the NIS almost with a frequency of one government's lifetime. Quite often these changes were haphazard and led to inconsistency in the distribution of responsibilities, enforcement powers, working methods and procedures. Therefore, an effective enforcement would need continuity in institutional reforms.

5. The implementation of these common principles will depend upon the ability of the NIS environmental enforcement agencies to deal with actual severe constraints. During the past decade the transfer of knowledge to inspectorates and experience exchange were simply absent. The lack of basic facilities and analytical equipment prevents inspectors from carrying out their duties, including from measuring the real environmental impacts. Low salaries nourish the "brain-drain" and corruption phenomena. Unfortunately, solving these problems is in many cases beyond the human capacity, material and financial resources of the NIS enforcement agencies.

6. The implementation of above-mentioned principles will also require admitting that "universal" models for enforcement systems do not exist. Notwithstanding the high similarity in problems and challenges within NIS, the enforcement activity is much influenced by country-specific social, economic and cultural factors. The entire spectrum of these factors should be taken into account when transposing common goals and principles into concrete actions².

7. In order to develop further common principles for better enforcement and compliance in the NIS, a thematic Institutional Strengthening Working Group was established. This group will elaborate the key aspects of institutional strengthening, such as:

- Mission and scope of activity;
- Vertical and horizontal institutional setting;
- Enforcement responsibilities and powers;
- Activity planning and performance assessment;
- External communication and partnerships;
- Human resources management and facilities;
- Budgeting and financing enforcement activities.

8. The NIS experts also considered the international dimension of environmental enforcement efforts in the context of implementing bilateral, regional and multilateral environmental agreements in their region. Among others, meeting participants indicated problems which arise from little or complete lack of information and involvement of the enforcement agencies in the negotiation, ratification and implementation of international conventions. They called for urgent steps to be undertaken by the governments to engage enforcement agencies into the process of negotiating the Multilateral Environmental Agreements and the assessment of feasibility of compliance with the new requirements and enforcement burdens. They also stressed that networking among enforcement professionals can be a powerful mechanism to improve the co-operation at the international and regional level.

9. Several participants expressed the opinion that the legal and normative framework of environmental policies, which is the basis of enforcement, can and ought to be harmonised. The EU environmental legislation could serve as a reference point for such harmonisation. This process, however, would need a careful adaptation to the NIS realities.

10. Progress in implementing the work programme of the NIS Environmental Compliance and Enforcement Network (NISECEN) was presented by the Network Co-ordinator. This included an explicit identification of products and key events. There was a general agreement on the good progress with the implementation of various project elements. A brief summary follows.

11. In the period after the Second Network meeting (end of November 2000), the detailed Terms of Reference were developed for various project components. Two working groups (on environmental permitting and on inspection) were established. The scope of work on environmental permitting was defined during the first Expert Meeting and the initial assessment of the permitting systems in the NIS is under way. The outline for a Toolkit on Inspection Criteria and Procedures was agreed upon among the members of the Inspection Working Group. Close relations are maintained with other networks (mainly IMPEL and INECE).

2. A concise description of the NIS enforcement agencies and their common problems is presented in the *Survey of Current Practices of Environmental Inspectorates and Options for Improvements*.

12. Decisions on the operational level included setting deadlines for major outputs of various activities and expanding membership in already existing working groups on inspection criteria and procedures and environmental permitting. The need to formally establish National Focal Points and provide aid in strengthening their institutional capacity was repeatedly mentioned.

13. Important suggestions for the enrichment of the Network's work programme included a study on financing of enforcement, including charging schemes for inspectorate's activities. A more extensive preparation and dissemination of case studies concerning effective enforcement actions is needed.

14. The topic of the next meeting of the Network, which is scheduled for May-June 2002, was also discussed. The Network members reached the agreement to focus on compliance promotion and discuss this issue in close co-operation with industry representatives and NGOs. A preliminary agenda will be developed and sent for comments within a month. Interest was shown to combine this event with a short-term exchange programme with an inspectorate in one of CEE countries. The programme would also include carrying out a joint inspection of industrial facility.

15. New opportunities for co-operation and partnerships received due attention during the meeting. The presentation of a EU/Tacis project to support the implementation of environmental policies and NEAPs helped to identify opportunities for carrying out in-country demonstration projects which would strengthen environmental enforcement. The virtual network of local environmental agencies in the European region -- EURREPAS -- was presented.

16. The participants evaluated the contents of meeting as satisfactory. The openness of discussion, the interest to generate ideas, to share experience and to develop common principles and approaches in enforcement were highly appreciated. The bilateral discussions during the meeting initiated a number of sub-regional initiatives, as for instance joint inspections with participation of Georgian and Armenian inspectors. In this respect, the participants proposed that in the future time is allocated for sub-regional exchange and dialogue. According to the participants' opinion, continuity in nominal representation of the NIS at the Network meetings is required.

17. The Meeting Proceedings will be prepared by the end of the year 2001. All meeting materials (e.g. agenda, presentations, country briefs, discussion summary and list of participants) are available on the EAP TF Secretariat's web site (www.oecd.org/env/eap). For more information please contact Ms Angela Bularga, Network Co-ordinator at angela.bularga@oecd.org.

Annex 1. The list of thematic presentations and papers prepared for the St. Petersburg meeting.

1. Comparative Analysis of Models for an Organisational Structure of the Enforcement Agencies in the European Union's Member Countries (Terence Shears, DGXI, European Commission)
2. Country Briefs on Institutional Aspects of Environmental Enforcement: Armenia, Georgia, Kyrgyz Republic, Kazakhstan, Tajikistan, Uzbekistan, Ukraine
3. Environmental Federalism and Enforcement in the United States of America (Richard Emory, International Enforcement Office, United States Environment Protection Agency)
4. Guardians of Environment: some elements of planning and performance assessment in United Kingdom (Bob Barker, Process Industries Regulation Manager, Environment Agency of England and Wales, UK)
5. Organisational Structure and Responsibilities of the Polish Inspection for Environmental Protection (Wieslaw Sobczyk, Vice-Director, Department of Environmental Inspection, Poland)
6. Reforming State Environmental Control System in the Russian Federation (Svetlana Ryapolova, Deputy Head, Department of State Control of the Ministry of Natural Resources, Russian Federation)
7. Role and Key Directions of Activity of the EAP Task Force (Brendan Gillespie, Head of the EAP Task Force Secretariat)
8. The Netherlands' Inspectorate of Environmental Health: Past, Present and Future (Gerard Wolters, Inspector General of the Inspectorate for Environmental Health, Ministry of Housing, Spatial Planning and the Environment)
9. Trends and Ways Forward in the Development of the New Independent States Environmental Inspectorates (Nino Chkobodze, Minister of Environment of Georgia, EAP Task Force Co-chair)
10. Some Views on Efficient Environmental Control and Enforcement of Industry from a Swedish Perspective (Hans-Roland Lindgren, Director, Swedish EPA)