



## **ENVIRONMENTAL COMPLIANCE ASSURANCE: TRENDS AND GOOD PRACTICES**

Conference Report

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### Conference Highlights

- The conference participants agreed with the identification of key trends in environmental compliance assurance in the OECD study “Environmental Compliance Assurance Systems: A Cross-Country Analysis” and commended the OECD for the high quality and value of the report.
- “Doing more with less”, or increasing the efficiency and effectiveness of compliance assurance, was recognised as the overarching message of the OECD study and became the key leitmotif of the conference.
- The participants agreed that even with better efficiency (cost effectiveness), more resources were needed for environmental compliance and enforcement, and that it is necessary to develop methodologies to assess minimum resource requirements for the achievement of compliance objectives.
- The representatives of different stakeholders emphasised the importance of well-designed legal requirements for effective compliance assurance and the need to strengthen the feedback from compliance and enforcement practices to the policy and regulatory development.
- The participants identified a number of priorities for enforcement agencies and invited the OECD to explore opportunities for doing further work on such issues as:
  - Strategic planning and performance indicators;
  - Risk-based targeting of compliance monitoring;
  - Compliance promotion, especially among SMEs;
  - Establishing a level playing field in compliance assurance; and
  - The public’s role in compliance assurance.
- The participants expressed their appreciation of the opportunity offered by the conference to exchange best practices among regulators and other stakeholders and signalled their interest in having similar events in the future.

## 1. Introduction

Compliance assurance – compliance promotion, monitoring, and enforcement against violations – is often the weakest link in the cycle of environmental regulation in both OECD member and non-member countries. A two-year OECD project engaged environment agencies in six OECD member countries (Finland, France, Japan, the Netherlands, the UK, and the US) and two major emerging economies (China and Russia) in a systematic comparative analysis of their compliance and enforcement instruments, the ways in which they are applied, their efforts to make them more effective and efficient, and the results achieved. The project focused on compliance with pollution prevention and control regulations, particularly in the industrial sector. The main output of the project – a report on good practices and trends in environmental compliance assurance – served as the background document for the conference.

The two-day conference brought together over 50 participants from 17 countries, representing environmental authorities, industry, academic experts, and NGOs (the list of participants is attached as Annex 1). Its key objectives were:

- To exchange experiences on the good practices and trends in environmental compliance assurance in OECD countries and major emerging economies based on the draft project report; and
- To agree on a limited number of emerging compliance assurance issues that would represent priorities for more in-depth study across OECD member countries.

These objectives were introduced by [Mr. Robert Visser](#), Deputy Director of the OECD Environment Directorate, in his opening remarks. He also presented the following policy challenges of more effective and efficient compliance assurance:

- How can governments use their limited human and financial resources to achieve the greatest environmental gain?
- Which mix of instruments is most effective?
- How can performance of enforcement authorities be measured?
- How can environmental policy design and enforcement approaches be made most mutually supportive?

Mr. Visser also highlighted the main message of the OECD comparative study – *doing more with less* – improving the efficiency of compliance assurance by focusing the activities where they are likely to count most, improving the traditional instruments, and adopting innovative approaches and tools.

## **2. Trends in Environmental Compliance Assurance**

The conference discussed principal trends in modern compliance and enforcement practices in light of the conclusions of the OECD cross-country study. They were presented by [Mr. Eugene Mazur](#), the project's manager at the OECD Secretariat, as follows:

- Increased focus on strategic planning and performance assessment on environmental outcomes;
- Integration of permitting and compliance monitoring regimes across media;
- Growing importance of compliance promotion;
- Risk-based targeting of compliance monitoring;
- Making enforcement more proportionate to the extent of non-compliance;
- Greater emphasis on self-monitoring by the regulated community;
- Enhancing stakeholder cooperation, transparency and public disclosure of information;

- Mobilising opportunities provided by information technology; and
- Analysing non-compliance with environmental requirements in order to improve policy design.

Mr. Mazur particularly emphasised the shift from output-based to outcome-oriented performance indicators of environmental enforcement authorities while indicating that it is very difficult to compare the quantitative data across the countries. He also described different approaches to risk-based targeting of inspections and presented practical evidence that better targeting leads to better discovery of environmental offences.

Most of identified trends are not equally marked in all the OECD countries studied (e.g., US & Japan have medium-specific permitting/monitoring regimes) and are not as well developed in China and Russia. However, they largely represent the common directions of progress toward greater effectiveness and efficiency of modern compliance assurance systems across very different legal, institutional and cultural settings. At the same time, one of the principal challenges going forward is to assess the limits of “doing more with less”, i.e., minimum human and financial requirements that need to be met in order to achieve given environmental compliance objectives.

A panel of stakeholders, chaired by **Mr. Gerard Wolters**, Inspector-General for International Enforcement Cooperation of the Ministry of Housing, Spatial Planning and Environment of the Netherlands, was invited to briefly share perspectives on, and discuss the conclusions of, the OECD comparative study. Each member of the panel represented an important stakeholder group: environmental authorities, industry, and the NGO community.

**Ms. Patricia Blanc**, Head of the Pollution Prevention and Environmental Quality Department of the General Directorate for Risk Prevention at the French Ministry of Ecology, Energy, Sustainable Development and Spatial Planning, characterised the report as very useful for the French government. She singled out the issues of risk-based targeting of inspections, performance indicators, and compliance assistance to small and medium-sized enterprises as her Ministry’s priorities for further work.

**Mr. Chris Sheehy**, Vice President of Global Environment, Health and Safety at Imerys SA, spoke on behalf of Mr. Steve Hellem, Executive Director of the US Corporate Environmental Enforcement Council (CEEC) who could not attend the conference. He said that the nine trends identified in the OECD report were indeed occurring, at different levels and paces in both in the United States and elsewhere. Mr. Sheehy stressed that it was important that regulatory requirements be clearly delineated and communicated to the regulated community. He also suggested that risk-based targeting must be based on a full understanding of the root causes of non-compliance. In addition, Mr. Sheehy emphasised that effective compliance assistance must be an integral part of any successful environmental enforcement programme and should be supported by adequate resources.

**Mr. John Hontelez**, Secretary General of the European Environmental Bureau (a federation of 143 environmental NGOs in 31 European countries), focused his remarks on the role of public participation in environmental compliance assurance and the risk of weakened enforcement as a result of better regulation initiatives in the European Union. He also deplored the prevalence of efficiency considerations (caused by expenditure cuts) over effectiveness in the implementation of environmental regulations.

The importance of several other themes of the report were raised during the discussion: well-designed legal requirements, genuine engagement of industry and the public, ensuring equal treatment of the regulated community both nation-wide and internationally, etc.

### 3. Modern Compliance Assurance Strategies

The growing number and variety of statutory requirements, pressure to reduce the administrative burden on the regulated community, and diminishing budgets pose a challenge for compliance assurance authorities to increase the effectiveness and efficiency of their activities. In a session chaired by **Dr. Antero Honkasalo**, Director of the unit of environmental protection in industry and trade at the Ministry of the Environment of Finland, the participants discussed strategies and instruments that the countries' competent authorities use to meet this challenge.

**Ms. Catherine Wright**, Head of Better Regulation at the Environment Agency of England and Wales, discussed tools for targeting compliance programmes in England and Wales. She presented the risk-based approach as one of the principles of better regulation and focused on Operational Risk Appraisal (Opra) – a risk screening methodology reflecting potential environmental impact and an operator's behaviour – as its key instrument. She also highlighted the results achieved by the Environment Agency to date in risk-based compliance assessment: greater focus on outcomes, 70% reduction of low-risk waste inspections since 2002, increased emphasis on in-depth audits of large facilities, etc.

**Dr. Henk Ruessink**, Programme Manager for International Enforcement Cooperation of the Environmental Inspectorate of the Netherlands, presented the experience of cross-media integration and interagency coordination of compliance monitoring in the Netherlands, its organisational and programmatic aspects. He highlighted the efforts to reform the traditional Dutch compliance monitoring and enforcement system with many inspection authorities and overlapping tasks, insufficient interagency coordination, and large inspection burden on enterprises. The new compliance monitoring approach includes performance- and risk-based inspections, one-stop inspection "front offices" for the regulated community, coordination between different inspection bodies, etc. He particularly emphasised the role of the National Environmental Enforcement Coordination Secretariat which ensures uniform compliance assurance strategies, stimulates and facilitates interagency collaboration, and supports inspectors' professional development by providing information and documentation.

**Ms. Catherine McCabe**, the Deputy Assistant Administrator of US EPA's Office of Enforcement and Compliance Assurance, talked about the EPA experience in using output and especially outcome performance indicators to assess its activities and their environmental results, strategic planning by means of National Enforcement Priorities, and working with state environmental agencies to ensure good performance (particularly through the State Review Framework). She will also stressed the transparency of enforcement data in the US.

The issues of horizontal and vertical cooperation between regulators with environmental competencies as well as outcome indicators of compliance assurance activities were at the centre of the ensuing discussion. Representatives of several European countries suggested that the introduction of integrated permitting (the IPPC Directive) gave a major impetus to interagency coordination. The participants also reflected on the challenge of linking pollution reductions (and their health benefits) to enforcement.

### 4. Engaging the Regulated Community

The steadily growing importance of compliance promotion and the variety of tools used by regulators to engage the regulated community respond to the need to find efficient, win-win solutions to increase compliance with environmental requirements. A special session of the conference was dedicated to presenting and discussing different ways in which agencies and industry in OECD and non-member countries address this issue. The session was presided over by **Mr. Dirk Hazell**, Chief Executive of the Environmental Services Association (UK).

[Mr. Christopher Sheehy](#) of the Imerys corporation presented his company's practices in upholding compliance through corporate environmental management. In particular, he highlighted the environmental health and safety audit programme and regulatory training of staff. He also underlined the importance of global corporate environmental standards for different aspects of environmental management, which are often more stringent than national regulations.

[Dr. Hidefumi Imura](#), professor of environmental systems analysis and planning at the Graduate School of Environmental Studies of Nagoya University, presented Japan's approach to building a cooperative relationship between industry and regulatory authorities, which has its historical, social, cultural and environmental roots. He described in more detail cooperative enforcement using administrative guidance, the use of Local Pollution Control Agreements (negotiated environmental performance targets between local authorities and individual companies), and voluntary action plans adopted by industry associations and focusing particularly on climate change mitigation measures.

[Mr. Richard Martin](#), Manager of the NetRegs Programme at the Environment Agency of England and Wales, presented NetRegs – a sophisticated web-based tool created in partnership between the UK environmental regulators (for England and Wales, Scotland, and Northern Ireland) to provide free environmental guidance to small and medium-sized businesses throughout the country. After describing the substantive content and implementation status of NetRegs, he outlined the ongoing programme of enhancements aimed at providing more personalised and tailored compliance assistance.

[Ms. Wanxin Li](#), assistant professor with the Department of Public and Social Administration at the City University of Hong Kong, addressed China's experience with information-based instruments of compliance promotion, with a focus on environmental performance information disclosure and environmental recognition programmes. She traced the rollout of the "Green Watch" programme of colour rating of firms' environmental performance from the pilot phase to its current implementation in dozens of Chinese cities. Ms. Li also presented China's central government's efforts to institutionalise them, the challenges of using these instruments, as well as lessons learned so far.

The session's plenary discussion focused on the merits of compliance promotion, especially on demonstrating its effectiveness to policy makers. While some participants suggested that compliance promotion addressed future regulatory issues and was an indispensable part of any policy implementation programme, others indicated difficulties in convincing policy makers that compliance assistance to the regulated community was part of the government's mandate (as opposed to a private service). There was a consensus that better indicators are needed in order to generate evidence of regulators' savings (e.g., from better targeted enforcement) from compliance promotion programmes.

## **5. Areas for Further Work**

In the conference's last session chaired by *Ms. Manon Bombardier*, Deputy Director of the Environmental Enforcement Directorate of Environment Canada, the participants were asked to reflect on priority issues for environmental enforcement authorities, whose more in-depth analysis could be undertaken by different organisations, including the OECD.

The OECD Secretariat reported on the results of an "express poll" among the conference participants (via a short questionnaire) designed to identify the top three priority issues from the list of environmental compliance assurance trends presented in the comparative study report. In their interventions, the participants justified and further detailed their priorities. The key issues that emerged from the responses received and the discussion were:

- strategic planning and performance indicators, particularly the refining of outcome indicators;
- risk-based targeting of compliance monitoring and the role of random inspections, and
- compliance assistance to SMEs.

In addition to the key trends, many participants highlighted the issue of establishing a level playing field in compliance assurance via effective linkages between activities at the national, sub-national, and local levels (e.g., in decentralised systems) as well as providing horizontal consistency of enforcement. Further analysis of the role of the public in environmental compliance assurance was also mentioned as an important topic.

Members of the European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL) shared information on the network's ongoing and planned activities and suggested possible synergies with the OECD's future work in this area.

The participants agreed that the value added of the OECD was in providing a broad geographical perspective and its analytical credibility. They expressed interest in a continued exchange of experience among environmental regulations and other stakeholders.

The conference's highlights and conclusions were presented by **Mr. Brendan Gillespie**, Head of the Environment and Globalisation Division at the OECD Environment Directorate. He reiterated the priority issues identified during the meeting and outlined the OECD's next steps in finalising and publishing the project report as well as defining, and securing funding for, 2009-2010 activities on environmental compliance assurance. He emphasised the key role of the OECD Working Party on National Environmental Policies (WPNEP) in these processes. In addition, Mr. Gillespie acknowledged financial contributions to the conference, particularly from the UK government.



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