
NEW INDEPENDENT STATES ENVIRONMENTAL COMPLIANCE AND ENFORCEMENT NETWORK (NISECEN): AN EFFECTIVE MECHANISM TO STRENGTHEN ENVIRONMENTAL COMPLIANCE AND ENFORCEMENT IN EASTERN EUROPE AND CENTRAL ASIA

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SUMMARY

This paper provides background on how the New Independent States Environmental Compliance And Enforcement Network (NISECEN) was established and its current activities. With the collapse of totalitarian governments in Central Europe, the local and international public were finally able to become aware of the degrading environmental problems in their countries. However, due to socio-economic problems, the issue of environmental protection was not always of top priority. During a meeting of environmental inspectors from Eastern Europe and Central Asia, held in September 1999 in Chisinau, Moldova and organised jointly by the Ministry of Environment and Territorial Development, the State Environmental Inspectorate of the Republic of Moldova and the OECD Secretariat, NISECEN was formed. NISECEN became an effective mechanism for strengthening environmental compliance and enforcement in Eastern Europe and Central Asia.

1 INTRODUCTION

In several countries of Eastern Europe as well as Central Asia (1) growing understanding of environmental problems were an important factor stimulating political changes, which resulted in the collapse of the Soviet Union in 1991, and subsequent democratisation and a transition to a market economy. Very quickly, however, environment slipped down on the political agenda as some environmental problems decreased with downturn in output; austere macroeconomic policies brought social and economic problems to the fore. The main challenge of the countries in the region was to tackle serious environmental problems in the period of economic transformation and to translate environmental slogans into

practical programmes that would lead to real environmental improvement.

Notwithstanding severe human and resource constraints, environmental authorities have dedicated significant efforts to develop new environmental policies that would be suitable for a new economic situation; enforcement agencies have continued to control compliance and enforce environmental laws. However, there was a growing urgency for better definition of the responsibilities in these areas, strengthening the role and capacities of environmental and enforcement agencies and increasing the effectiveness of enforcement tools.

The "Environment for Europe" Conference of Environment Ministers from the whole European region, held in June 1998 in Aarhus, Denmark, called for

greater attention of the international community to the problems faced by the countries of the former Soviet Union. The Ministers emphasised the need to shift from the development to the effective implementation of environmental policies and action programmes, and more effective enforcement was one of the key areas of attention.

The NIS Environmental Compliance and Enforcement Network (NISECEN), which was established within this framework, supports countries in Eastern Europe and Central Asia in strengthening enforcement and promoting compliance with environmental regulations. The main functions of the Network are to:

- facilitate strengthening environmental inspectorates, tools for enforcement and compliance and the relations with the regulated community through the development and implementation of region- and country-specific capacity building and technical assistance projects;
- promote regional networking and international co-operation through exchange of information and experience among the countries of the region, and between the NIS and OECD and other countries, to increase compliance with national and international environmental requirements.

This paper aims to present current practices in enforcing environmental requirements in Eastern Europe and Central Asia and introduce activities of the NIS Enforcement and Compliance Network. Part 1 of this paper provides an overview of the challenges faced by enforcement agencies in the context of economic and political reform in the region. Part 2 presents briefly the structures, stakeholder relations, activities of environmental enforcement institutions, the types and application of enforcement instruments used to respond to violations of the environmental requirements and stimulate compliance with them. On that

basis, the main lessons learned and recommendations to increase in the future the effectiveness of institutions and tools future are presented. Part 3 of the paper describes the role and the main features of the NIS Enforcement and Compliance Network and the experience accumulated over the last two years of its operations.

2 TRANSITION TOWARDS MARKET ECONOMY IN EASTERN EUROPE AND CENTRAL ASIA

The collapse of totalitarian regimes in Central Europe in the late 1980's, and the disintegration of the Soviet Union in the early 1990's, brought the region's serious environmental problems to the attention of the international community. A few well-known cases attracted the attention of the international community, such as the consequences of the accident at the Chernobyl nuclear power plant and the catastrophe of the shrinking Aral Sea. In many cases, severe health impacts of air pollution from industry, water pollution from point and non-point sources or overuse of natural resource were not obvious even to those living in the region. When the information about these impacts became available the growing public awareness about the magnitude and impacts was one of the catalysts for change. The reform process offered a unique window of opportunity to integrate environment into the development of democratic and market-based societies.

A number of countries, first and foremost those in Central Europe, indeed embarked on the rapid economic transition towards market-based systems. The liberalisation of prices, changes in property rights and in economic structures, as well as democratisation, created a new framework for economic development. At the same time, economic transformation prompted significant declines in industrial production. This resulted in noticeable

reductions in pollution emissions. With the decrease in pollution and the growing impact of adjustment policies on society, public interest and support for vigorous environmental policies diminished. Environmental issues lost their place on political agendas as economic and social considerations came to the forefront. As a consequence, the “window of opportunity” for integrating environmental concerns into economic development began to close considerably.

The economic reform and transition towards market economy and democratic societies in the countries of the former Soviet Union have been much slower than the development in Central Europe. It was influenced by a number of factors, including:

- Over seventy years of the influence of the totalitarian system which governed political and economic development and society.
- Slow democratisation of the political systems and limiting access of the society to information and to the decision-making, which was coupled with the strong influence of narrow interest groups.
- Much deeper than in Central Europe, and in many cases continuing, economic declines, as well as internal and border conflicts which followed the disintegration of the Soviet Union.

While technological, social and economic progress has been recorded in some countries of the region during the Soviet period, a number of them are now classified as developing countries.

2.1 Environmental Policy in Eastern Europe and Central Asia before 1991

Before the political changes of early 1990's, environmental policies within the Soviet Union (as well as in other central and eastern European countries)

shared several common characteristics, such as:

- ideological, over-ambitious planning goals
- declarative and non-realistic standards which were neither enforceable nor enforced;
- “command and control” legislation combined with a lack of enforcement will;
- extremely centralised decision-making and discretionary allocation of resources;
- focus on technological solutions;
- restricted access to information and lack of public participation.

Environmental policies were built on extensive systems of environmental legislation supplemented by a set of stringent ambient and/or effluent standards. In many cases, enforcement required more data than monitoring systems could provide. Responsibilities for environmental protection were dispersed among sectoral agencies and only in the late 80's and early 90's did consolidated environmental agencies start to emerge. Although environmental committees and ministries were established, their capacities, budgets and influence were generally low; their role was limited to co-ordination and advice.

In environmental management, various policy instruments were used, mostly of a regulatory character. In a number of countries, systems of environmental fees and fines on pollution emissions and natural resource extraction were in place. However, fees and fines, which were either negligibly low or unrealistically high, did not generally reflect the real costs or value of environmental damages. They did not create sufficient incentives for economic actors to meet environmental standards. Centrally prepared five-year plans included provisions for environmental investments by enterprises as well as by regional and local government bodies. A portion of state budgets was allocated for these pollution

control investments, such as large sewage treatment plants, air pollution control installations, and solid waste disposal systems. Usually, however, construction of such facilities extended over many years and capacities were often insufficient and their technologies obsolete by the time of completion. In many cases, due to overcapacity and lack of budget transfers, facilities were never completed. It should be pointed out however that, central planning as well as patterns of economic development where industrial activities have accumulated around deposits of natural resources resulted in the underdevelopment of some parts of the region. This helped to preserve a diversity of wildlife and areas with unique natural features richer than those in other European countries.

2.2 A New Context of the Transition Period

In early 1990's, all the New Independent States developed new environmental policies and National Environmental Action Programmes. The main goal of these new programmes was to establish the overall policy framework for environmental protection adapted to the process of political, economic and social changes that they were undergoing. The new programmes were comprehensive and served a variety of purposes: taking stock of environmental problems and establishing an information base, elaborating principles of new policies, and redesigning policy instruments and institutions.

In many cases, however, the implementation of these programmes has been slower than expected. The new policy and legal frameworks developed by NIS governments, in many cases, followed the old patterns of planning with ambitious, often unrealistic goals and prohibitive standards and lack of effective implementation methods. In particular, enforcement has not received sufficient attention and violations

of environmental laws have been widespread. At the same time, compliance by enterprises was constrained. The slow pace of economic reform, lack of restructuring industry and their poor financial conditions, complicated legal frameworks and, as well as cultural and social development factors, were major factors of non-compliance. In some countries, however, the economic downturn and cuts in production helped enterprises to comply with the existing environmental regulations in the short term.

Notwithstanding difficulties and severe human and resource constraints, environmental enforcement agencies have continued their efforts to control compliance and enforce environmental laws. Many inspectorates, as well as the Ministries of Environment, are currently undergoing structural changes. These changes reflect strive for improving management of environmental institutions, while others are occurring within the context of wider administrative changes.

Nevertheless, the need to define better the responsibilities in these areas, to strengthen the role and capacities of enforcement agencies and to increase the effectiveness of enforcement tools is still great and capacity building actions required. It was acknowledged, however, that these efforts would not be effective unless environmental policies are revised to provide a more realistic framework for compliance by the regulated community, and more generally, further progress is made in establishing the rule of law. Exposure of enterprises to market forces, supported by comprehensive environmental regulatory reform process, are necessary to create better incentives to meet environmental requirements.

3 CURRENT PRACTICES AND LESSONS LEARNED FROM REVIEWING ENFORCEMENT EFFORTS IN EASTERN EUROPE AND CENTRAL ASIA

In 1999-2000, the Environmental Action Programmes Task Force Secretariat carried out a survey of enforcement and compliance in countries of Eastern Europe and Central Asia. The final report (2) compiled the answers provided by environmental enforcement agencies from the twelve countries to a questionnaire, as well as in follow-up interviews. The report also presented general discussions of the best practices concerning effective enforcement and compliance, which was, in most cases, drawn from materials developed within the International Network on Environmental Compliance and Enforcement (INECE), and in particular from a USEPA publication entitled "Principles of Environmental Enforcement". With the description of state-of-the-art approaches as the starting point, recommendations were made for how these might be taken forward in the context of Eastern Europe and Central Asia. The main findings of the survey, which reflect the situation as in 1999, are presented below.

3.1 Institutional Framework for Enforcement

The environmental enforcement agencies in the NIS possess wide responsibilities for controlling compliance by enterprises and enforcing them but their current institutional set-up hinders the achievements of these goals. Their position in the governmental structure is weak and their relations with policy-making bodies, i.e. Environmental Ministries and Committees, are blurred. These features limit inspectorates' impacts on other governmental agencies and industry. Limited financial and human resources of enforcement agencies is also a major cause of low

effectiveness of their efforts. Resources are spread too thinly, or fragmented, among many functions that include permitting, compliance control, environmental monitoring, reporting and compliance promotional functions.

The situation in Eastern Europe and Central Asia resembles a "top-down policy implementation staircase" rather than "policy-making - enforcement - policy revision - compliance circle" which exists in many OECD countries. The feedback from the inspectors to policy makers on the results of environmental policy implementation and the effectiveness of policy instruments is lacking and policy design is very often driven by a regulatory process independent of the results of enforcement efforts and compliance.

The results of the survey show an urgent need for strengthening skills of inspectors. These could be enhanced by extensive training and capacity building programmes and the development of guidance documents. The increase of capacities of inspectorates, however, cannot be implemented without adequate financing and there is also the need to develop realistic funding strategies for the Inspectorates (they, however, should not compromise their independence versus polluters).

Experience from the region shows that environmental enforcement cannot be confined to one institution. Many governmental agencies, environmental (such as environmental funds, information and monitoring institutions), and sectoral (such as Ministries of Health, Natural Resources, Industry, Transport, Justice, Interior, Customs, etc.) play an important role. Only concerted efforts can bring about the required compliance. At the same time, the different responsibilities of governmental institutions can lead to overlaps and duplications. While some overlap is often inevitable, this should be minimised. Thus, the roles of different institutions in the area of enforcement and compliance promotion

require clear definitions and making these relations formal.

3.2 Participation of Stakeholders

Effective enforcement also requires an active participation of stakeholders beyond the government administration. Professional associations, universities, citizens' groups and industry are important partners of environmental inspectorates, especially in compliance promotion.

The limited stakeholder participation in the NIS region reduces the potential for utilizing the public and peer pressure, voluntary enforcement promotion actions by the public and voluntary responses by industry. The role of the public and NGOs in the region can be one of the most important elements in recognition of non-compliance and compliance promotion. Industry should be consulted to determine compliance problems and the best means of harmonising action by enforcement institutions at different levels.

Although experience from effective participation of the public in enforcement efforts, as well as mechanisms for a dialogue between authorities and enterprises, exists, further analysis of mechanisms for increasing public and other stakeholders participation in enforcement and compliance efforts, and increasing the transparency of inspectors operations is needed. The role of courts in enforcement is generally insufficient. Enforcement institutions have to continue to press for legal action in cases of serious or persistent non-compliance. Mechanisms are needed to improve the awareness of court personnel on environmental enforcement.

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3.3 Compliance Control

Compliance control covers the areas of permitting and inspection. In several countries of Eastern Europe and Central Asia, responsibilities for these two functions are not well defined among institutions and this causes several problems. The lack of provisions for feedback from environmental inspectors on the environmental permit design is one of the key obstacles to effective enforcement. Permits must take account of the real operating conditions of each process and local environmental constraints. This can only be done with effective interaction between those issuing permits and those involved in inspection and enforcement. This may be achieved by establishing new procedures between permitting and inspection staff, or by a reform of the institutional structures themselves.

Inspections have also significant resource implications for both enforcement agencies and for enterprises. In order to reduce the number of inspections, and to make more effective use of resources, the overall system of permitting should be reviewed with the aim of developing a more integrated and cross-media permitting system. A great deal of experience exists in this area in OECD countries and the European Union that could provide models for the region. A follow-up project is now being implemented within the NISECEN that analyses environmental permitting procedures and institutional framework for permitting and control procedures. Preliminary results of the project are presented in Box 1.

It is important that inspectorate resources are targeted at the most important regulated installations. There are a number of criteria, which are used to achieve better inspection targeting. However, more information sharing is needed among the inspectors on the nature of the criteria used to define the "worst" polluters or those processes with the greatest hazard. This should enable

inspections to optimise environmental benefits. Enforcement institutions also have to invest significant effort into follow-up procedures. Permitting and inspections require significant resources but these may be wasted if the follow-up activities are not well targeted. If undertaken correctly, well-targeted follow-up procedures can result in less work in subsequent inspections.

The inspectorates face serious problems with regard to the quality of support facilities and equipment, especially the quality of laboratories and monitoring equipment. Some of them are in critical state. Many laboratories lack basic measurement instruments and reagents. It is, therefore, necessary to prioritise monitoring programmes by targeting those pollutants or industries that are most important to the immediate impact on human health and on eco-systems. However, this cannot be done without changes in the legal requirements in order to limit the number of pollutants subject to control. (See Box 1. Current Permitting Systems in the NIS and Major Elements of Transition to Integrated Permitting)

Self-monitoring can be one of the options for ensuring adequate environmental monitoring and industry should be encouraged to carry out self-monitoring and self-reporting. Government institutions need to ensure that the same quality criteria are applied to government and industrial laboratory facilities. In cases where enforcement institutions undertake monitoring for industry, procedures are needed to ensure that this does not result in conflicts of interest.

3.4 Enforcement Powers and Tools and Non-Compliance Responses

The enforcement institutions in the region possess extensive enforcement powers and have at their disposal a variety of informal and formal enforcement tools. However, the extent to which these are

being applied in practice is not obvious and there are indications that some powers remain largely theoretical. Non-compliance responses are more widely used, mostly in the form of non-compliance administrative fees. Greater use of enforcement powers and non-compliance responses is constrained by institutional barriers, such as weak position of enforcement agencies within the governmental structure and vis-à-vis industry, and insufficient levels of penalties. Formal enforcement, especially judicial actions, is constrained by general problems faced by the courts but also by lack of understanding of environmental cases in the courts.

Another obstacle to effective enforcement is the high degree of discretion enjoyed by inspectors, in particular, provisions for waivers and exemptions. This is reinforced by the lack of transparency of enforcement actions, which may lead to politically driven actions by enforcement agencies and benefit-driven actions by individual inspectors. Further efforts are needed to eliminate corruption by increasing the transparency of inspectors' operations.

The impacts of enforcement and non-compliance responses, especially non-compliance fees, is limited due to low rates. In many cases, polluters choose to pay the fines rather than invest in pollution control; this approach is more economically beneficial. The low collection of fees and fines also contributes to the problem. Thus, there is a need to modify the levels of non-compliance fees to create a deterrent effect and increase their collection rates. Although neither revisions of the base and the rates of non-compliance fees and fines nor the collection of payments are the responsibility of enforcement agencies, practical experience which inspectors could provide on the effectiveness of the policy instruments could be extremely useful for policy-makers considering the adjustment of these instruments.

3.5 Effectiveness of Enforcement

There are major constraints to effective environmental enforcement, including the heritage of the Soviet system, cultural and historical features, economic and social environment. Many of these cannot be overcome by internal action of enforcement agencies. However, economic hardships necessitate more careful management and targeting of resources, which could increase the effectiveness of inspectorates and, at the same time, contribute to the increased confidence in the government institutions by the public.

A comprehensive evaluation of enforcement efforts has not been a feature in the countries of the region. Some assessments have been done using activity indicators (e.g. revenue from sanctions imposed by inspectors, number of violation cases or complaints, number of inspections). In some cases, reports on environmental quality refer to inspectors' actions. These attempts were good starting but further work is needed to develop better criteria and methodologies for carrying out the assessment of enforcement efforts and performance of inspectorates. Particular emphasis could be put on assessing compliance rates.

During the reviews of inspectorates' performances it was clear that some enforcement institutions were much more ready to provide information on successful rather than unsuccessful actions. Publicising the results of all enforcement action, whatever the outcome, should be encouraged. Unsuccessful action is not always the fault of the enforcement institution and a lack of openness can undermine confidence in, and relationships with, enforcement institutions for important citizens groups.

3.6 Promoting Environmental Compliance

The system of strict control of

compliance with environmental requirements and penalisation of violations was an exclusive approach in policy implementation in the Soviet Union. This approach, which does not consider compliance problems faced by enterprises, has continuously been applied in many countries to date. As a result, the promotion of environmental compliance is a new area of activity for many enforcement institutions.

However, before promotion activities are considered there is a need to establish an effective economic and environmental policy framework. Several examples of necessary actions are presented in the Policy Statement on Environmental Management in Enterprises adopted at the Ministerial Conference in Aarhus in 1998, which is being promoted in the region. At the same time, enforcement institutions work on encouraging enterprises to improve environmental management using the following activities:

- Development of an environmental compliance promotion policy by governments, including provision for a broader application of Cleaner Production measures and promotion of Environmental Management Systems, economic incentives and targeted financial support actions.
- Developing specific goals for enterprises and processes, through compliance schedules for example, established by inspectors and industry.
- Seminars and training programmes for staff and enterprise managers on compliance promotion to establish contacts between the two stakeholders and to lay the ground for voluntary compliance.
- Organising information and dissemination seminars with the participation of policy makers, inspectors and industry to discuss environmental requirements, and problems with, and opportunities for, compliance.

- Developing communication lines, using seminars, documentation dissemination and exchange, and other tools, between the inspectorates and the citizen's groups to build public support for enforcement efforts and promoting compliance.

Case studies are needed, documenting successes and failures of compliance promotion and analysis of best possible approaches, including institutional and policy framework. Special links should be established by inspectorates with institutions that aim to promote better environmental management in enterprises, such as Cleaner Production Centres, professional associations and universities.

3.7 Transboundary Issues

Compliance with international (multi-lateral global and regional) agreements, including national enforcement actions require special consideration. Sharing information about requirements of international agreements, both multilateral and bilateral, should be promoted among and within each NIS. The NIS inspectors underlined the importance of the involvement of environmental enforcement agencies in the process of negotiating, ratifying and implementing international commitments as they can realistically assess the capacity to comply with new requirements. In addition, detailed implementation programmes have to be drawn to facilitate the implementation of the conventions. These programmes should include cost estimates and the provisions for generating necessary resources to address additional burdens. Additional requirements should also be reflected in individual inspectors' schedules and adequate resources should be secured for transboundary enforcement co-operation.

Historical conflicts or national security issues may prevent effective transboundary co-operation. Political and mili-

tary conflicts have occurred quite often in the short history of the former Soviet Union nations and even though the military activities have stopped they still may shadow bilateral relations between neighbouring countries and the relations between the neighbouring communities. Environmental co-operation, including addressing transboundary issues, can provide an important mechanism for establishing free of political weight dialogue and co-operation between authorities and communities. Development of intergovernmental agreements and carrying out joint activities between the inspectors can assist in better understanding of the differences in the legal requirements and can also lead to their harmonisation. The NISECEN has already provided a framework for establishing initial contacts between enforcement agencies of the neighbouring countries.

4 NIS ENVIRONMENTAL COMPLIANCE AND ENFORCEMENT NETWORK — HISTORY AND CURRENT PRIORITIES

4.1 The Origins

In 1993, the Environmental Action Programme for Central and Eastern Europe provided recommendations on how to integrate environment into the development of democratic and market-based societies in the region following the political changes in Europe in late 1980's. At the 1993 Ministerial Conference in Switzerland, a Task Force was established to assist central and eastern European countries (CEECs) and the Newly Independent States (NIS) to:

- Promote the integration of environmental and economic policies.
- Upgrade institutional and human capacities for environmental management.
- Broaden political support for environmental improvement.
- Promote mobilisation and cost-effective

use of financial resources.

Several activities have been carried out in the period 1993-1998 to reach these objectives. These have focused on supporting the development of National Environmental Action Programmes, increasing the effectiveness of environmental financing and promoting environmental management in enterprises.

Following a Ministerial Conference, held in June 1998 in Aarhus, Denmark, the EAP Task Force adopted a new work programme, which called for greater focus on the New Independent States of the former Soviet Union and emphasised the need to shift from the development to the implementation of environmental policies and action programmes. Strengthening enforcement and compliance with environmental requirements in the NIS emerged as an important focus within the new Work Programme.

An important milestone in implementing Ministerial decisions was a meeting of environmental inspectors from Eastern Europe and Central Asia that was held in September 1999 in Chisinau, Moldova. The meeting was organised jointly by the Ministry of Environment and Territorial Development and the State Environmental Inspectorate of the Republic of Moldova and the OECD Secretariat within the framework of the EAP Task Force. The participants included officials and inspectors from Eastern Europe and Central Asia as well as invited experts and representatives of donor agencies from Western and Central Europe.

The participants discussed the problems and opportunities related to the different institutional settings of enforcement agencies worldwide and in the region as well as existing and potential enforcement tools and non-compliance responses. The role of the public, industry and other stakeholders in inducing compliance was an important part of the discussion along

with the identification of more effective ways in which enforcement agencies could promote compliance by enterprises in the transition period. Finally, possible criteria and ways for assessing the effectiveness of enforcement tools and the evaluation of environmental inspection performance were discussed.

One of the main outcomes of the meeting was the establishment of the NIS Environmental Compliance and Enforcement Network (NISECEN). The establishment of the NISECEN reflected the trust of the Aarhus Ministerial Declaration where the importance of international co-operation to strengthen the enforcement of national environmental law was stressed.

The next "Environment for Europe" Ministerial Conference to be held in Kiev in 2003 will take stock of progress in addressing environmental problems in the region. The work on enforcement and compliance will constitute one of the elements contributing to the Ministerial discussion.

4.2 NISECEN Objectives, Value Added and Main Programme Elements

Exchange of experience, know-how transfer and co-operation among countries can provide important support for strengthening enforcement and compliance efforts. While sharing a common heritage such a process can help to compare positive and negative experience with applying different instruments or institutional framework. At the same time, since environmental enforcement institutions in the region have diverged in important respects international co-operation can stimulate the development and introduction of new ideas adapted to the specific conditions of individual countries.

The NIS Environmental Compliance and Enforcement Network aims to provide a framework for dialogue and actions at two levels, including:

- Promoting regional co-operation.
- Exchange of information and experience among the countries of Eastern Europe and Central Asia and between them and countries from other regions.
- Assisting in developing and implementing region- and country-specific capacity building and technical assistance projects to support enforcement agencies and promote compliance.

The discussions within the NISECEN cover a wide array of issues, such as horizontal and vertical institutional frameworks and responsibilities for enforcement, regulatory and non-regulatory instruments, engaging the public and regulated community, and international co-operation to implement bilateral and multilateral environmental agreements. The dialogue, which is conducted at plenary and expert meetings, is supported by the development of case studies as well as best practices, guidance and reference documents. The main elements of the Work Programme are presented in Annex 1 and the key outputs in Box 2.

The NISECEN is a unique initiative as it is the only one providing a forum for dialogue between environmental inspectors in the region where they can exchange experience and lessons learned. During the discussions the ideas are generated for further in-country actions.

The Network also provides opportunities to link with practitioners and experts from other regions to enable the NISECEN Members to build upon on the rich experience accumulated in other networks. The NISECEN co-operates very closely with the International Network of Environmental Compliance and Enforcement (INECE) and other European networks such as IMPEL (enforcement network of EU Member States) and AC-IMPEL (enforcement network of EU candidate countries).

The Network also provides an

important forum to identify capacity building and know-how needs and communicate them to the donor community. A number of demonstration and pilot projects, supported by donors on the bilateral basis, have been launched.

Finally, the Network has a direct link to the high-level environmental policy-makers through the EAP Task Force and "Environment for Europe" process so the recommendations developed within the Network are communicated to high-level policy makers so they can receive a high political support for reform of environmental policies and institutions at both national and local level. The key lessons learned from the initial period of the NISECEN operations are presented in Box 3).

4.3 Organization of the Network

The activities of the Network engage officials that develop policy at a national level as well as practitioners who undertake inspections of installations. Dissemination of experience and results is also carried out beyond the Network members in the region and representatives of other interest groups, such as judges, NGOs, industry, Cleaner Productions Centres, professional associations are invited to the Network activities on a permanent or ad-hoc basis. Experts from other regions are invited to take part in the Network meetings and specific projects. The NISECEN meetings are also attended by the representatives of the donor agencies. This provides them with the opportunities to discuss the scope of assistance projects with the recipients and identify the ways to make their assistance more effective. (See Box 2: Key Outputs of the NIECEN Work Programme)

Key Principles for Effective Environmental Enforcement in the NIS: The NIS officials and experts agreed on the need to develop a concise policy document that would identify guiding princi-

ples and key structural elements of effective environmental enforcement systems, tailor-made to the NIS context. This document should be instrumental in identifying targets for institutional development in individual countries in regards to environmental enforcement and compliance promotion. The Principles will be addressed to environmental ministries, central and regional enforcement agencies. Eventually, the Principles' endorsement at the national level will demonstrate the governments' commitment to improve existing enforcement systems.

An Update of the Survey on Enforcement and Compliance in Eastern Europe and Central Asia: The update of the Survey on Current Practices in Environmental Enforcement and Compliance Promotion in NIS will be prepared as a complimentary document to the Principles. While the Principles will state the desired situation, the Survey will scrutinise it in comparison with the actual situation in the NIS and will assess recent changes in environmental enforcement systems.

Synthesis Report on Environmental Permitting Systems in the NIS: This document will describe major features of the environmental permitting systems in the NIS, identify deficiencies and screen the needs and potential to reform these systems.

Inspection Toolkit: The toolkit will provide general elements of and contribute as much as possible to the needs of the individual NIS in improving their inspection organisation. The toolkit will facilitate the adjustment of inspection criteria and procedures to current requirements and, mainly, will be addressed to managers and practitioners.

Glossary of Enforcement Terms: The purpose of the glossary is to provide a common understanding of the terminology and enable users across NIS to easily communicate among themselves and with part-

ners in OECD and CEE countries.

Terms of Reference for Training Programme(s): The Network intends to design training programmes in individual countries and/or at the regional level. The programme's Terms of Reference will describe priority target groups, overall and specific objectives of training, its content and possible approaches, inputs, outcomes, timeframe and budget estimates.

Other Supporting Documents:

- English/Russian Glossary of Terms;
- Training Materials;
- Directory of the NIS Enforcement Agencies and Their Main Partners;
- NISECE Web Site (www.oecd.org/env/policies);
- Russian translations of supporting publications, such as OECD two volume publication "Environmental Requirements for Industrial Permitting in OECD countries" and a USEPA "Principles of Environmental Enforcement";

The principal mechanism for programming and exchange of experience are the annual Network meetings. The first launching meeting of the Network which was held in September 1999 in Chisinau, Moldova focused on the general problems and opportunities related to enforcement and compliance worldwide with a particular emphasis on defining the priority need of the inspectors in the region. The second annual meeting, which was held in November 2000 in Baku, Azerbaijan, focused on environmental permitting and also agreed upon the elements of Network activity in 2001-2003. The third Network meeting, held in September 2001 in St. Petersburg, Russian Federation, discussed the framework and targets for institutional development of the NIS enforcement agencies.

A number of activities of the Network are being implemented through the small Working Groups established to work on specific elements of the work programme.

The Groups consist of selected Network Members interested in working on a particular subject. For example, small working groups have recently been formed to analyse in more depth such aspects of the work programme as environmental permitting, inspection criteria and tools, and inspectorates' institutional development. The groups meet on an ad-hoc basis to discuss the scope of the activity and results. The final findings are presented in analytical reports at the annual meetings of the Network for discussion among the Network Members. (See Box 3. Key Lessons Learned from the Initial Period of the NISECEN Operations).

The activities of the NISECEN are co-ordinated by a small secretariat located at the OECD in Paris. The Secretariat, which was established in September 2000, is composed of one full-time Project Manager and part-time Assistant. The Project Manager assists the Members in developing and implementing the work programme. The Manager also takes the lead in preparing Network annual and expert meetings, commissions and administers the preparation of analytical reports, carries out technical assistance needs and brokers between the NIS Members of the Network and donors. The Project Manager also maintains communication and information dissemination channels between Network Members and beyond. In addition, a half-time Local Co-ordinator is located in one of the Network Member countries and assists the Secretariat in Paris in liaising with Network Members and carrying out research and information collection activities.

Core activities, managed directly by the NISECEN Secretariat, are "twinned" with demonstration projects, i.e. projects implemented by donor agencies as part of their direct aid to individual countries. This synergy of regional and country-based work allows to achieve changes "on the ground", disseminate and replicate results. The

Secretariat works closely with the Network partners on the development of project concepts and more detailed Terms of References and fundraising (Box 4). The Secretariat also keeps the close contacts with these projects to ensure that their results and lessons learned are widely disseminated throughout the Network (See Box 4: In-Country Demonstration Projects developed within the NISECEN framework).

A range of demonstration projects are currently under way supported by the EU Tacis Programme, Sweden and the USAID. These include:

- Proposals to Improve Institutional Setting in Moldova and development of the Inspectorate's Management Plan.
- Inspector Manuals and Training in Armenia, Belarus and Moldova.
- Inspectorate's Communication Strategy in Uzbekistan.
- BAT-based regulation in St Petersburg, Russian Federation.
- Approximation of the IPPC Directive in Moldova and Ukraine.
- Proposals to Reform Environmental Permitting Systems in Armenia, Kazakhstan Uzbekistan and Ukraine.
- Inspector Manuals and Training in Armenia, Belarus and Moldova.

The Network budget for a two and a half programming period (2001-2003) is 750.000 EUR. Staff and activity costs are supported by voluntary contributions from individual OECD countries. The main supporters of the Network are the Netherlands, the European Commission, Sweden, Germany and Denmark. In kind support is provided by Sweden, the UK and the US. Increasingly, in kind contributions are being sought from the NIS Members of the Network to support selected activities of the Network.

REFERENCES

1. In the context of this paper the region of Eastern Europe and Central Asia is composed of the following countries: Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, the Russian Federation, Tajikistan, Turkmenistan, Ukraine and Uzbekistan. This group of countries can also be referred to as the New Independent States of the former Soviet Union – NIS, or the Commonwealth of the Independent States – CIS.
2. “Environmental Compliance and Enforcement in the NIS: A Survey of Current Practices of Environmental Inspectorates and Options for Improvements” [CCNM/ENV/EAP(2000) 87], OECD 2000

ANNEX 1: MAIN ELEMENTS OF THE NISECEN WORK PROGRAMME 2001-2003

TASK 1: SUPPORT TO INSTITUTIONAL REFORM

Objective: Gaining support for and catalysing institutional improvements in the NIS enforcement agencies

Main activities:

3rd thematic NISECEN Meeting and follow-up activities

Meeting proceedings

Development of the Key Principles of Enforcement by a Working Group and the Secretariat

Input to the law development process (e.g. in the Russian Federation)

Assistance in project identification, writing ToRs and support to the implementation of donor demonstration projects

World Bank IDF project in Moldova

Preparing an Update of the 2000 Survey of Enforcement Practices in the NIS, results to be reported at the Kyiv Ministerial Conference

TASK 2: ENVIRONMENTAL PERMITTING

Objective: Advocating lower burdens for regulators and industry and a better link between environmental permitting and enforcement

Main activities:

Two volume OECD manual on permitting translated into Russian language

Country profiles and analysis of environmental permitting in the NIS in comparison with OECD/CEE countries

Development of recommendations and case studies

Working Group and Expert Meetings (December 2000 and 2001)

Preparation of a Reference Book on Environmental Permitting Demonstration projects and training (e.g. in Armenia and Kyrgyzstan; a regional training for inspectors)

TASK 3: INSPECTION CRITERIA AND PROCEDURES

Objective: Providing guidance in setting up a more effective compliance control system and inspection prioritisation;

Main activities:

Inspection Working Group (IWG)

Development of a Toolkit on Environmental Inspection Criteria and Procedures,

Previously developed inspection manuals gathered and reviewed (USEPA, USAID, IMPEL, Ukraine Tacis)

Co-operation with the World Bank

IDF projects in Belarus and Moldova on developing inspection manuals

TASK 4: PROFESSIONAL TRAINING

Objective: Contributing to professional growth of officials and practitioners from NIS enforcement agencies

Main activities:

English/Russian Glossary of Enforcement Terms

Exchange programmes between Inspectorates

Assistance in identification of relevant training courses (cooperation with the WB Institute)

Terms of References for human capacity building projects and selected materials translated into Russian

TASK 5: COMPLIANCE PROMOTION AND COMMUNICATION

Objective: Fostering communication with regulated community and civil society;

Main activities:

Development of a communication strategy in Uzbekistan together with the World Bank IDF project

Thematic 4th NISECEN Meeting; Working Paper on Compliance Promotion Tools;

Participation in NGO forums;

Other public relation activities.

TASK 6: GLOBAL NETWORKING

Objectives: Promoting understanding of problems faced by the NIS enforcement agencies and gaining support from policy makers at the international level; and contributing to widening of international cooperation by the NIS inspectorates

Main activities:

Participation in the preparation of

the 6th International INECE Conference;

Input to the development of the UNECE Guidelines on Enforcement and Compliance

Active participation in INECE EPC meetings;

Participation in IMPEL and BERCEN meetings;

Synopsis of projects and results achieved by other networks, translation of relevant materials

TASK 7: INFORMATION AND MANAGEMENT

Objectives: Knowing better the project stakeholders and ensuring that as many as possible institutions and individuals are participating and contributing to work plan implementation and as many as possible of them benefit from the results of NISECEN activities

Main activities:

Web site www.oecd.org/env/policy;

Directory of institutions and database;

Progress Reports and Biennial Report ;

Development of the NISECEN Work Programme for the subsequent period

Box 1: Current Permitting Systems in the NIS and Major Elements of Transition to Integrated Permitting

Generally, all countries of the region have long-lasting experience in permitting industrial activities. The “polluter-pays” principle has been introduced as an environmental policy tool in late 1980-ies. Nowadays, in some countries there are intentions to harmonise legislation with EU environmental acquis, and the political will to introduce integrated pollution prevention and control.

Environmental permits are used to limit emissions into the environment. However, the permits are mostly oriented towards end-of-pipe solutions rather than pollution prevention. Typically, they set Emission Limit Values for individual facilities, and cover a significant number of pollutants. The Emission Limit Values are derived from and calculated to meet ambient standards (Maximum Allowable Concentrations). In the majority of cases, limit values are unrealistically high, difficult or impossible to achieve even technically.

The number of regulated substances is not clearly identified in permits and abnormal operation conditions are not taken into account. Permit conditions are rigid towards process and product changes, increased or decreased production capacity. Reporting obligation and other conditions are rarely set in permits. Permits have validity for a limited time period, maximum up to 5 years. In some countries a permit renewal is requested on annual basis, while Emission Limit Values might be valid for a longer period. Permits and conditions set thereof are hardly available to the general public. Although legal requirements are in place, experience in systematically informing public opinion is recent or almost absent.

Industry has an important role to play in permitting and large enterprises are used to go through the permit application process. Industry is required to initiate the permit application process and is responsible for supplying true information. Facilities also ensure limited monitoring and reports to the authority(-ies). At the same time, the regulated community is poorly identified and country overviews on companies subject to permitting are usually incomplete (if any).

Pollution taxes are paid for agreed levels of emissions and companies exceeding the limit values, which are set in permits, are fined. Absence of a permit is penalised based on the rates applicable in case of non-compliance with Emission Limit Values. However, financial incentives to apply for, and respect conditions of a permit, are weak due to low levels of pollution fees and fines, the erosion of their value caused by high inflation and low fee collection rates.

Various environmental authorities are responsible for permitting. Institutional set-up is highly dependent on national environmental administrative systems, which have gone through several changes during the last decade. As a rule, permitting authorities are responsible for checking the content of the applications, issue the permit, and supervise permit owner. Inspectorate carries out compliance control. The human, material and financial resources, available to environmental authorities, do not ensure the adequate functioning of the actual permitting system. For instance, there is little experience in conduction negotiations, providing technical assistance or establishing partnerships between entrepreneurs and authorities.

Since a clear development trend towards integrated permitting emerges across regions, which stems from the process of harmonisation of the regulations with those of the European Union, several NIS have started the transition to an integrated permitting system. Based on the experience from OECD countries the main elements of reform should be as follows:

- Adjust the legal and regulatory framework.
- Identify the range of industry subject to integrated permitting requirements.
- Define the introduction time-scale and sequence of industries.
- Develop guidance for industry.
- Define who and how much pays for permitting.
- Elaborate the content of application and process of applying for a permit.
- Set up the mechanism of public consultation.
- Elaborate the permit structure.
- Analyse financial implications of moving to integrated permitting.
- Build capacity of institutions and staff.

Box 2: Key Outputs of the NIECEN Work Programme

Key Principles for Effective Environmental Enforcement in the NIS: The NIS officials and experts agreed on the need to develop a concise policy document that would identify guiding principles and key structural elements of effective environmental enforcement systems, tailor-made to the NIS context. This document should be instrumental in identifying targets for institutional development in individual countries in regards to environmental enforcement and compliance promotion. The Principles will be addressed to environmental ministries, and central and regional enforcement agencies. Eventually, the Principles' endorsement at the national level will demonstrate the governments' commitment to improve existing enforcement systems.

An Update of the Survey on Enforcement and Compliance in Eastern Europe and Central Asia: The update of the Survey on Current Practices in Environmental Enforcement and Compliance Promotion in NIS will be prepared as a complimentary document to the Principles. While the Principles will state the desired situation, the Survey will scrutinise it in comparison with the actual situation in the NIS and will assess recent changes in environmental enforcement systems.

Synthesis Report on Environmental Permitting Systems in the NIS: This document will describe major features of the environmental permitting systems in the NIS, identify deficiencies and screen the needs and potential to reform these systems.

Inspection Toolkit: The toolkit will provide general elements of and contribute as much as possible to the needs of the individual NIS in improving their inspection organisation. The toolkit will facilitate the adjustment of inspection criteria and proce-

dures to current requirements and, mainly, will be addressed to managers and practitioners.

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

Terms of Reference for Training Programme(s): The Network intends to design training programmes in individual countries and/or at the regional level. The programme's Terms of Reference will describe priority target groups, overall and specific objectives of training, its content and possible approaches, inputs, outcomes, timeframe and budget estimates.

Other Supporting Documents:

- English/Russian Glossary of Terms;
- Training Materials;
- Directory of the NIS Enforcement Agencies and Their Main Partners;
- NISECE Web Site (www.oecd.org/env/policies);
- Russian translations of supporting publications, such as OECD two volume publication "Environmental Requirements for Industrial Permitting in OECD countries" and a USEPA "Principles of Environmental Enforcement".

Box 3: Key Lessons Learned from the Initial Period of the NISECEN Operations

- Proceed from needs and clear objectives.
- Agree on a practical, realistic and measurable work programme as soon as possible and focus on delivering specific products.
- Rely on a strong stakeholder ownership.
- Define clearly the responsibilities, including those of the Secretariat.
- Keep the link to policy-makers in order to gain political support.
- Focus on human capacity development and commitment as main driving forces of changes.
- Maintain communication, including the general public.
- Interact with international partners.
- Stimulate country specific activities through promotion of demonstration projects.

Box 4: In-Country Demonstration Projects developed within the NISECEN framework

A range of demonstration projects is currently under way supported by the EU Tacis Programme, Sweden and the USAID. These include:

- Proposals to Improve Institutional Setting in Moldova and development of the Inspectorate's Management Plan.
- Inspector Manuals and Training in Armenia, Belarus and Moldova.
- Inspectorate's Communication Strategy in Uzbekistan.
- BAT-based regulation in St Petersburg, Russian Federation.
- Approximation of the IPPC Directive in Moldova and Ukraine.
- Proposals to Reform Environmental Permitting Systems in Armenia, Kazakhstan Uzbekistan and Ukraine.
- Inspector Manuals and Training in Armenia, Belarus and Moldova.