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## SUMMARY OF PLENARY SESSION #1: THE ROLE OF INSTITUTIONS AND NETWORKS IN ENVIRONMENTAL ENFORCEMENT

Moderator: Michele de Nevers

Rapporteur: Evan Wolff

### 1 INTRODUCTION

This plenary session assessed the role of networks and international institutions in environmental enforcement. It concluded that they have a critical role to play in rising to the challenges inherent in any effort to restrain the wide array of environmental violations occurring across the globe. These networks and institutions can help develop and implement environmental policy, provide information and training, and serve as sources and conduits of assistance that is critical to leveling the playing field for countries and regions with vastly disparate capacities and needs, especially in the face of the constantly changing environmental challenges. Both networks and international institutions bring together specialists from both the environmental sciences and enforcement worlds. INECE, in particular, provides an excellent opportunity for professionals from varied disciplines to learn from each other and work together to address common problems. While these networks and institutions have achieved significant success both internationally and regionally, there is room for improvement. Enhanced and streamlined institutions are needed as well as additional national and regional networks. In addition, increased cooperation among networks, institutions, and MEA secretariats are needed, especially in the areas of monitoring and reporting. The European Commission network building activities and preparations for the World Summit on Sustainable Development were also discussed. INECE can help raise awareness of the importance of compliance and enforcement and the shared responsibility

of all nations for improvement. The success of the European Union's Implementation and Enforcement of Environmental Law, also known as the IMPEL network, was discussed as an excellent example of a successful network. In addition, the value to individual environmental practitioners is also significant. Successes, challenges, and networking experiences were detailed as part of the discussion period and the overall value of networking and institutional commitments to environmental enforcement appeared to be significant.

### 2 PRESENTATIONS

The moderator, Michele de Nevers, opened the panel by stressing that networking is very important to the World Bank even though it is not an enforcement agency. The Bank supports organizations that perform enforcement and compliance activities and believes strongly that enforcing environmental laws is critical to preserving the environment. Ms. de Nevers also stressed the importance of bringing together people that are specialists in different areas of the environment policy, including enforcement, and that INECE provides an excellent opportunity to learn from each other. To this matter, the World Bank has a vibrant distance-learning program allowing people to learn remotely and benefit from networks while reducing the problems associated the conference related travel.

The first panelist, Donald Kaniaru from UNEP, stated that many institutions exist today and some are prime movers in environmental policy development and implementation. These institutions have

mushroomed at the global and regional level but so have the efforts of actors to evade laws and regulations. Clearly, enhanced and streamlined institutions are needed as well as informal network at the national, regional, and international level.

Mr. Kaniaru continued with a review of the institutional framework of compliance and enforcement of environmental laws, then discussed the mandate as stated in Agenda 21 Chapter 38, and began to discuss the role of institutions and networks.

Mr. Kaniaru discussed the importance of enhancing institutions, realizing that environmental management must be integrate into work and polices in other areas. This includes working with other areas of law, bodies and institutions of international environmental agreements and regulations. This is important in areas of monitoring, reporting and other areas of compliance that are particularly critical for success of these agreements. Mr. Kaniaru discussed guidelines by which INECE can bring together people from across governments and non-governmental areas in an informal setting to share experiences and expertise and create networks. This is being done in global, regional and national settings.

Mr. George Kremlis from the European Commission stated that the European Commission is fully committed to INECE's work, to building environmental networks and being an influential participant at the World Summit on Sustainable Development. All institutions need to raise awareness of compliance and enforcement and realize that it is a shared responsibility of all nations. The EU has many networking initiatives, including criminal sanctions for environmental laws, implementing the polluter pays principle and making member states responsible for pollutions activities in there territories. The EU Implementation and Enforcement of Environmental Law network, or known as IMPEL, is an excel-

lent example of a successful network. The EU is also revisiting the ratification of the Aarhus Convention, which is critical to improving access to environmental information. The EU wants to improve this convention and enlarge its scope. Access to justice is another initiative that they are actively pursuing. In addition, they have created a strong informal networking allowing experts to speak frankly on behalf of their countries. Other new networks deal with the New Independent States and Balkans. Mr. Kremlis concluded by stating that networking is a very important tool in improving enforcement and enhancing effectiveness of environmental laws.

The last panelist was Antonio Benjamin from Lawyers for a Green Planet Institute. Mr. Benjamin stated that networking is the heart of INECE's mission. Most environmental practitioners know what networking is and do it in daily life but would be hard pressed to explain the goals of networking and discuss its operations. Mr. Benjamin discussed four topics in his presentation:

- the goals of networking;
- why and when we network;
- examples of types of networking; and judicial networking.

Mr. Benjamin outlined 5 goals of networking:

- cooperation with common goals and mandates;
- networking is a means of increasing communication to avoid overlaps and duplications;
- use networking for conflict avoidance and mitigation;
- learning technique for new agencies and units helping them learn how to accomplish their goals and missions by communicating with others doing similar area; and
- raises stakeholder participation.

Next Mr. Benjamin discussed why we network. He began by stating that, as a general rule, there are environmental systems throughout the world but there are not many centralized organizations that work with these systems. But why do these networks exist? First, we network when none of the partners have full authority to solve the problems and therefore, organizations must work together towards a common goal. Second, networking is when one partner has authority but does not have the resources, expertise, or political support. Networking also occurs when we need support of another partner to fully accomplish all the goals of the agencies or organizations. These are all voluntary networking opportunities, but there are times when networking is required. This occurs most commonly when a legislature requires inter-agency networking. Additionally, there are also horizontal and vertical networking, among environmental and non-environmental institutions, and between governmental and non-governmental organizations. However networking does have its limitations and challenges. Mr. Benjamin described how it is important that each agency recognize their natural limitations and their capacities. Networking does not occur at any time or at any price, while it is our goal to develop seamless and larger networks and we hope it will continue and all parties would like to keep the channels of communication open. This allows adversaries to engage in open discussions on often neutral subjects. But it is critical that in networking each partner needs to maintain their own values and identities, this is especially true for INECE.

Mr. Benjamin concluded with a discussion of judicial networking and how it is necessary for enforcement in an enforcement and judicial process.

### 3 DISCUSSION

Question by Jose Pablo Gonzalez

(Attorney General, Costa Rica). In judicial networking there are often difficulties in working between government agencies, especially arising when a prosecutor is a part of the executive branch and the judicial branch decides the cases that the prosecutor raises. Mr. Benjamin answered this question by discussing the tradition of judicial enforcement in most countries. As opposed to administrative enforcement, there is much more collaboration at the executive level than at the judicial level. Giving the judiciary more support will not result in more enforcement; we need to look at other actors to make enforcement work better, including administrative agencies and NGOs. Examine areas of standing and criminal vs. civil prosecution. Recognizing that the judicial agencies may be limited by the legislative and legal framework that it operates under.

Question by Steve Herman (United States): Have the EU regional agreements and networks resulted in specific compliance and enforcement actions in Europe and if so, what are some examples? Mr. Kremlis responded to the question by stating that the European Commission has a broad set of regulations and laws and is in the process of setting up a system for ensuring enforcement and compliance with these regulations. The system will allow for problems with compliance to trigger regulatory actions involving the member state, but these are still developing initiatives and have not been adopted by all member states. Included in these regulations being developed by the European Commission are criminal sanctions for environmental laws. Currently of all the complaints received by the European Commission, 46% of these complaints are for the environment and this trend is expected to continue.

Question by Beatrice Olivastri (FOE, Canada) – What is the importance of networking with corporate communities and how will it further develop? Mr.

Benjamin answered this by discussing that ethical principles are stricter when networking between state and non-state actors, especially regarding due process. We cannot allow networking to become a unilateral way to influence decision-making. Mr. Kaniaru discussed UNEPs efforts to network with corporations, developing codes of conduct, and increasing transparency between these actors. There are appropriate and inappropriate times to partner with industry, especially when creating regulations of pollution and development.

#### **4 CONCLUSION**

International institutions and networks play an important role in promoting effective national, regional, and international implementation of environmental laws and policies. INECE should continue its efforts to develop institutional and network capacity.