

Unclassified

ENV/EPOC/WPIEEP(2011)2

Organisation de Coopération et de Développement Économiques
Organisation for Economic Co-operation and Development

11-Jan-2011

English - Or. English

ENVIRONMENT DIRECTORATE
ENVIRONMENT POLICY COMMITTEE

Working Party on Integrating Environmental and Economic Policies

HOW TO PROMOTE NATIONAL CONSISTENCY OF ENVIRONMENTAL ENFORCEMENT

Brief Summary Record of the OECD Expert Workshop, Paris, 16-17 December 2010

16-17 March 2011

This expert workshop was part of a project on mechanisms to promote national consistency of environmental enforcement in countries with decentralised governance systems. The participants discussed the draft project report and exchanged national experiences and views on challenges of establishing a level playing field in environmental enforcement.

ACTION REQUIRED: For information

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JT03294944

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1. Background and Workshop Objectives

Decentralisation – a process of devolving powers and reforming the assignment of responsibilities across levels of government – has been a noticeable trend in public administration both in OECD countries and worldwide over the last two decades. This trend has important implications for governance in the environmental sector, including ensuring compliance with environmental legislation.

This workshop explored the issue of establishing a level playing field in environmental enforcement via effective linkages between activities at the national, sub-national and local levels in decentralised systems of environmental governance. Its *objectives* were to compare experiences of governmental environmental enforcement authorities in different OECD countries in promoting national consistency of environmental enforcement and to help identify successful approaches and implementation tools.

The workshop was part of a project that closely involved environmental enforcement authorities of Spain, Sweden, Switzerland and the United States, whose governments also supported it financially. The main output of this project – a report which seeks to identify oversight, coordination and capacity building mechanisms to promote national coherence of environmental enforcement – served as the background document for the workshop¹.

The workshop was opened by **Mr. Brendan Gillespie** of the OECD Environment Directorate and consisted of three segments, dealing respectively with the main messages of the draft OECD report, vertical and horizontal instruments of promoting national consistency of enforcement.

2. Discussion of Key Findings and Recommendations of the OECD Study

The objective of this session was to review the experience of several OECD countries in promoting enforcement consistency, summarised in the draft OECD report “Environmental Enforcement in Decentralised Governance Systems: Toward and Nationwide Level Playing Field”, and to discuss successful approaches and implementation tools.

Mr. Eugene Mazur of the OECD Environment Directorate outlined the preliminary key findings and recommendations of the OECD study. Mr. Mazur categorised the main issues of creating a level playing field in the implementation of environmental law. He also presented a menu of tools used by a number of OECD countries to promote enforcement coherence: from oversight of the work of authorities at lower administrative levels to less formal inter-agency coordination and capacity building mechanisms.

The subsequent discussion focused, among others, on the question of motivation of sub-national and local authorities to pursue enforcement practices consistent with those of other jurisdictions. Among the incentives mentioned were legal requirements, conditions attached to budget allocations, public pressure, etc. The participants raised an important issue of compliance consistency within individual economic sectors, in promoting which the private sector in general and trade associations in particular play a crucial role. The impact of political influences determined by ideological preferences of local elected officials was also evoked. Finally, the experts considered the question of resource intensity of specific vertical and horizontal tools to promote enforcement consistency. All these issues will be reflected in the final version of the report.

¹ Environmental Enforcement in Decentralised Governance Systems: Toward and Nationwide Level Playing Field, Draft Report, ENV/EPOC/WPIEEP(2011)1.

3. Priority Setting and Oversight Mechanisms

This session focused on formal mechanisms of “vertical” interaction between environmental enforcement authorities at different administrative levels.

Ms. Samantha Beers of the US Environmental Protection Agency presented the State Review Framework (SRF) – a tool introduced by the Agency in 2004 to evaluate the performance of the states in enforcing requirements of the principal air, water and waste regulatory programmes delegated to them from the federal level. SRF is a standardised system based on national data and documented procedures which allows the US EPA to assess variations in state programme performance, identify enforcement and compliance issues that need to be addressed, and increase the system’s transparency by publishing the results of each review.

The discussion on joint priority setting between national, sub-national and local enforcement authorities stressed the importance of relying on firm scientific evidence of priority environmental problems, addressing which should be in the interest of all levels of government.

4. Inter-agency Coordination and Capacity Building

This session was dedicated to a discussion of various forms of collaborative relationships between environmental enforcement authorities, including efforts to enhance the capacity of local agencies and make their practices consistent on the national scale.

Ms. Maria Colmenares of the Spanish Ministry of Environment and Rural and Marine Affairs explained Spain’s three-tier system of environmental policy implementation, including the national government, autonomous communities (regions) and municipalities. She presented Spain’s recently established Environmental Inspection Network (*Red de Inspección Ambiental, REDIA*) which serves as an instrument for cooperation and sharing experiences among regional competent authorities. The network’s first projects focused on risk-based inspection targeting and capacity building for integrated inspections in key industrial sectors.

Ms. Rose Webb and *Mr. Grant Pink* of Australia’s federal Department of Sustainability, Environment, Water, Population and Communities delivered their presentation over videoconference. They also focused on networking as a coordination and capacity building tool in compliance assurance. The Australasian Environmental Law Enforcement and Regulators Network (AELERT) brings together professionals from all levels of government in Australia and New Zealand. Mostly reliant on volunteers, AELERT facilitates the sharing of best practices in environmental regulation through annual conferences, joint projects and training courses. AELERT also contributes to the harmonisation of regulatory requirements across the country and the resolution of trans-boundary issues. This network is particularly important in Australia where the heavily decentralised system of environmental governance (e.g., there are no regulatory functions for pollution prevention and control at the federal level) does not provide legal tools for ensuring national consistency.

Ms. Gunilla Sallhed and *Ms. Inga Birgitta Larsson* of the Swedish Environmental Protection Agency (SEPA) presented a case of a unitary country with decentralised environmental policy implementation. Ms. Sallhed and Ms. Larsson emphasised the importance of Sweden’s Environmental Code as the legal basis for national consistency of environmental policy implementation and SEPA’s role in guiding, evaluating, advising and coordinating environmental enforcement authorities at the regional (country) and local levels. They gave multiple examples of national and regional-level networking mechanisms to exchange experience and best practices among competent authorities. They stressed that

guidance from the central authority also draws on inputs from, and experiences at, different administrative levels of environmental governance.

The presentation prepared by *Mr. Henk Ruessink* of the Dutch national Inspectorate of Housing, Spatial Planning and the Environment was delivered on his behalf by Mr. Eugene Mazur of the OECD (as Mr. Ruessink could not attend the meeting due to force majeure). It described the mechanisms of inter-agency coordination of compliance monitoring in the Netherlands. The institutional arrangements that have been developed in the Netherlands to try to address the enforcement consistency issue include the National Environmental Enforcement Cooperation Secretariat, shared service centres (where several local authorities pool resources to establish a joint environmental agency), joint inspections by different competent authorities, etc. There are also plans to create 25 regional enforcement agencies combining the resources of local, provincial and national enforcement bodies.

5. Summary of Workshop Discussions

Summarising the workshop discussions, *Mr. Eugene Mazur* (OECD) pointed out the political sensitivity of national consistency issues in OECD countries, despite their clear importance. He reiterated that the workshop's aim was not to promote the use of particular tools but to create a menu of options and stimulate the thinking on which of them are most relevant in each country's legal, institutional and cultural conditions. Mr. Mazur thanked the participants for raising a number of new elements of the analysis of enforcement consistency which would undoubtedly enrich the final project report. The report will be presented to, and discussed by, the OECD's Working Party on Integrating Environmental and Economic Policies (WPIEEP) on 16-17 March 2011 and will be released shortly thereafter.

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