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**CLOSING REMARKS FOR THE SECOND INTERNATIONAL  
CONFERENCE ON ENVIRONMENTAL ENFORCEMENT,**

Budapest September 25, 1992

On behalf of the Executive Planning Committee for the second International conference on Environmental Enforcement, we want to thank the speakers, panelists, moderators, and, of course, participants for your contributions which made this Conference a success. We look forward to your formal evaluations of the Conference, but from all the comments we have received, the very active participation and lively discussions, we can comfortably say that the purposes of the Conference were achieved.

The Conference sponsors, the United States Environmental Protection Agency, the Netherlands Ministry of Housing, Physical Planning and Environment, and the Commission of the European Communities, assisted by the Executive Planning Committee, (including the sponsors as well as the Environmental Ministries of Poland, Hungary, Czech and Slovak Federal Republic as well as the Regional Environmental Center in Budapest, the United Nations Environment Programme IE/PAC and Hungary's Public Prosecutor), prepared this Conference as a response to the growing awareness of the importance of environmental concerns and the necessity of enforcement to achieve the goals of environmental requirements which are designed to address environmental problems.

The Conference focused on the development and enhancement of domestic environmental enforcement approaches, particularly in Central and Eastern European countries. However, our participants from almost 40 nations and organizations all around the globe have found there is more common ground than differences in the fundamental principles of environmental enforcement, broadly defined to include actions to compel and encourage compliance. The challenges we all face may require different solutions from one nation to another, but the basic issues and range of approaches from which to choose are quite similar.

The Conference addressed the following seven themes over a four day period:

- Theme # 1: Context for Enforcement.
- Theme # 2: Designing Enforceable Environmental Requirements.
- Theme # 3: Developing an Effective Compliance Monitoring Capability (e.g. Inspection Capability).
- Theme # 4: Developing Authorities and Legal Enforcement Capabilities to Respond to Violations.
- Theme # 5: Economic Development And Ownership Issues.
- Theme # 6: Applications to a Particular Environment problem: Solid and Hazardous Waste.
- Theme # 7: Public Disclosure and Citizens' Role in Enforcement.

The final published volumes of the Proceedings will include summaries of each of the seven themes, key papers and discussions. We do not propose to summarize them here, but rather, would like to offer some highlights of the past four days on which we think we can build for what we can all look forward to as the third International Conference on Environmental Enforcement.

First, this Conference has been part of an ongoing process and commitment to work on a global scale to build strong, creative, effective domestic enforcement programs worldwide.

The goal of this Conference is compliance with environmental requirements. Compliance cannot be expected to happen voluntarily. Without active efforts to enforce, that is to both encourage and compel compliance, environmental policies and requirements are paper tigers, ineffective and unimplemented. However, the reasons we are focusing on environmental enforcement are many. Without enforcement environmental laws are not credible, and there is no respect for institutions responsible for environmental protection. Without enforcement there is no level playing field in the free market-place and those that choose to comply are economically disadvantaged, creating incentives to violate the law. And finally, without effective enforcement and implementation of environmental requirements, our societies bear more costs for cleaning up problems caused by unaddressed environmental pollution, there is little incentive to prevent pollution.

We have progressed since the first International Enforcement Workshop in Utrecht, the

Netherlands, in May 1990 and we have several new frameworks on which to build:

- The Principles of Environmental Enforcement, presented in Theme # 1, was developed initially as an international training course in response to a request for assistance by the Government of Poland. It provides a general set of definitions, principles, framework, and options for designing effective compliance strategies and enforcement programs in any cultural or legal setting. Following this Conference, it will continue to be used as a general frame of reference for exchange of experiences internationally. Agenda 21 calls for further institution-building in enforcement and compliance and this can serve as its foundation.
- Within this framework, we have a general recognition that enforcement must be defined broadly, recognizing that compliance with environmental requirements, and achievement of environmental results and behavior change require both promotion of compliance and more traditional enforcement approaches to compel compliance. Together they can create an atmosphere of deterrence in which most choose to comply rather than to violate requirements, in which efforts to overcome barriers to compliance such as ignorance of requirements and lack of technical know-how or financing ability, and efforts to provide disincentives to violate the law are made effective.

**Enforceability:** All Conference participants stressed the importance of developing enforceable requirements, during Theme #2 and other discussions. We now have established criteria for defining what makes a requirement enforceable. In developing enforceable environmental regulations and permits there are seven criteria that have to be met:

understandability, precise definition of coverage, clear standard of product, measurement of compliance (preferably quantifiable and measurable), clear deadlines for compliance, self-monitoring, recordkeeping and reporting requirements, and a proper adoption procedure. We heard many examples of how poorly designed and drafted requirements have rendered them unenforceable and ineffective. We also discussed without conclusion, the merits of establishing requirements which are more or less stringent or difficult to achieve. We also heard examples of national laws which were designed to make

compliance easy. Ultimately, to ensure enforceable rules, those that are responsible for enforcement must play a role in their design. Also, involvement of the public helps to ensure support for implementation.

**Organization:** We also have a framework for evaluating organizational options for environmental enforcement based upon the purpose of an enforcement program, its capabilities and qualities along with a range of options for such organizations. We recognized that any enforcement organization requires substantial coordination across levels of government and among government agencies. Cooperation is needed in enforcement, both nationally and internationally, for exchange of information and the effectiveness of implementation of enforcement authorities. Among participants there was the feeling that enforcement bodies should benefit from a certain independence from general administrative authorities.

Second we established some common ingredients for making enforcement programs more successful:

#### Compliance Monitoring, Theme #3

- Multi-media inspections are preferred to ensure an integrated approach. However, there are practical difficulties such as the complexity of several laws and the complexity of large industrial sources which raise a multitude of issues. They may be addressed by several actions:
  - a team approach, combining single-media specialists;
  - support from a central elite team;
  - extensive training or coaching, and
  - inspectors might best be trained in specific industries.
- Source self-monitoring, reporting and record-keeping needs to be required more as the basis for compliance monitoring as inspection resources are too limited to provide the necessary coverage and it shifts some of the cost burden from government to regulated entities who must do much of this monitoring anyway to maintain compliance. There are concerns however, with the economic burden placed on the regulated community, particularly medium and small sized facilities. Such impacts must be considered in designing requirements, and required reporting is best tailored to focus more reporting from facilities with a greater potential environmental impact.

All programs lack resources for extensive inspection activity so priorities must be set for inspections at a higher frequency for those facilities which are most polluting. Inspection resources may be increased by funding them through fees which can be based upon the potential pollution or environmental impact, number of employees or other factors. This is an approach that Norway uses as an alternative to funding through general revenues. The fee schedule, while providing program funding, essentially dictates how and where inspections can be made. One advantage is that because the inspections are funded by the regulated community, the government is pushed to ensure a quality inspection.

#### Enforcement Authorities, Theme #4

- \* A range of authorities, including administrative, civil judicial and criminal enforcement authorities are needed to address the range of environmental violations. Administrative enforcement will be most widely used in most instances because of its lower cost and quicker response time.
- \* Penalties and other sanctions should be set at appropriate levels to change behavior and not just lead to payments to pollute. They should be commensurate with the violation but also strong enough to have a deterrent effect.
- \* Voluntary compliance should be promoted to avoid the costs of having to use enforcement authorities.
- \* Enforcement by local authorities having expertise related to environmental control can effectively leverage limited regional and national resources, this includes enforcement authority for municipalities, police and regional governmental units.

#### Citizen Involvement and Public Disclosure, Theme #7

We all agreed that citizens play a critical role in making enforcement effective in achieving compliance.

Public support and an educated citizenry are essential to support enforcement. This can be accomplished through disclosure to the public of information on releases.

Third, we discussed ways of addressing some very difficult enforcement problems, facing General and Eastern Europe, in particular, but not exclusively:

In theme #5, the problem of enforcement against government owned entities was discussed. All agreed that environmental requirements should be obligatory for everybody, for government and non-governmental entities alike. It was generally acknowledged that enforcement against government entities is difficult. Technical assistance and training can play an important role. The organization housing the enforcement function must have the necessary authority to be able to harmonize the efforts of environmental compliance of other government agencies. The public can play a particularly important role if information is made available about violations. Also, assigning enforcement to a different level of government can ensure independence. Despite its difficulty, nations such as the U.S. and Canada have had success in taking enforcement against their own government agencies.

Enforcement is not easy, particularly in areas experiencing economic difficulties. This can be experienced in any nation, but will be almost a universal condition in Central and Eastern Europe and developing nations. Speakers with experience in enforcement identified several approaches to use to enforce and achieve compliance at such facilities through creative enforcement responses. The U.S. experience with steel mills in the 1970's employed many creative approaches to work with that industry to come into compliance. Enforcement agreements were negotiated involving all levels of government, using approaches such as pilot projects and then trying it out in one or two parts of the plant (if the violator argues that control equipment is too costly or technically infeasible), using a phased-in approach to lower the cost burden by spreading out the cost, asking for research studies as part of agreements to enable the facility to develop new designs, requiring reports on progress, using less expensive interim controls for a limited time or using alternative reduction programs to achieve same reductions with a different mix of controls within a plant.

Ability to pay can be a factor in assessing a penalty. These agreements need the commitment and perseverance of government officials, cooperation from industry, and innovative approaches to recognize economic conditions and address them.

Privatization is happening at a very rapid rate in Central and Eastern Europe. It is complicated by at least 14 paths of new ownership arrangements. Environmental agencies, even if properly involved in the process, could not hope to be involved in each negotiation. However, privatization presents a unique opportunity to leverage foreign capital and technological and environmental management know-how toward ensuring future operations in compliance with environmental concerns. Foreign investors are also in need of some certainty as to the standards that will apply and that the proposed schedule and actions to correct existing problems is acceptable. The following elements were discussed regarding privatization:

1. environmental factors should be introduced by law and practice into the privatization process ... if not by law then in practice by ensuring the involvement of environmental officials in transactions and negotiations.
2. environmental audits, a key part of the process for governments and private parties, should be required for all paths of privatization.
3. institutional relationships must be established between Ministries of Privatization and Environment and local governments.
4. environmental requirements and standards must be clear ... e.g. for soil clean up ... if costs are to be assessed, and clear-cut decisions are needed on the problem of who bears the coat for past damages.
5. to gain full benefits of privatization it is desirable to set aside some of the privatization purchase price monies to provide clean up funds to ensure funds go toward improvement of environmental conditions.

Given the difficulties of enforcement in Central and Eastern Europe it was suggested that the countries might join together to enforce requirements related to a common environmental priority such as cleaning up the Danube River in a coordinated way.

Fourth when applied to a particular environmental problem, illegal shipment of hazardous waste, Theme #6, we discovered that all elements of environmental enforcement are needed.

The overwhelming feeling in theme #6 is that strategies for handling solid and hazardous waste need dramatic improvements. Three main priorities emerge from the discussions:

1. More communication. Better communication will ensure that the targets to be reached will not be unrealistic or that there is no contact between the regulated community and the enforcing bodies.
2. More coordination will result at the international level in a clear definition and classification of waste. The importance of the Basel Convention has been underlined. Its ratification is strongly encouraged by participants from industrial as well as governmental origin. More pressure is needed for a quick ratification. Nevertheless ratification is recognized as only a first step, after which many are needed to fulfil its goals.
3. More pragmatism is needed in designing waste management strategies so that they are in accordance with the economic capacities and social and cultural context of the country.

It is felt that the transport of hazardous waste has to get more attention from international enforcement organizations like Interpol. Interpol offered such support.

Fifth, despite the fact that we all agreed that environmental enforcement is essential if environmental programs are to be implemented, there is still a fundamental lack of political support and commitment to environmental enforcement in many regions of the world, leaving environmental requirements ineffective. Developing this awareness requires several actions: Publicizing and educating the general public about environmental concerns is critical. An informed electorate ensures that political leadership is also sensitive to environmental matters. Providing for citizen involvement in enforcement can ensure that their interests are protected, indeed, the greatest natural resource for enforcing our laws are our citizens, as they are closest to the problems and most affected by irresponsible actions. For citizen involvement to be effective, it is necessary to have clear environmental laws and standards, access to information, a judicial system that is receptive to citizen suits, and adequate training for citizens to enable them to interpret the information and initiate the procedures.

Governments need to support NGO participation in the enforcement process and involve NGO's in the current legislative and administrative framework. Examples of effective information and educational tools that could be used by governments to enhance voluntary compliance and pollution prevention were suggested, including publishing chemical emission data, requiring environmental audits and regulating product labelling.

Business can play an active role in environmental protection through voluntary source reductions, environmental audits, and environmental labelling. Governments can assist in these efforts by providing technical assistance and information on waste minimization technologies. For citizen involvement to be effective, it is necessary to have clear environmental laws and standards, access to information, a judicial system that is receptive to citizen suits, and adequate training for citizens to enable them to interpret the information and initiate the procedures. Governments need to support NGO participation in the enforcement process and involve NGO's in the current legislative and administrative framework. Examples of effective information and educational tools that could be used by governments to enhance voluntary compliance and pollution prevention were suggested, including publishing chemical emission data, requiring environmental audits and regulating product labelling. Business can play an active role in environmental protection through voluntary source reductions, environmental audits, and environmental labelling. Governments can assist in these efforts by providing technical assistance and information on waste minimization technologies.

Further we must develop and provide for creative ways to harmonize economic and environmental interests, both within the process for enhancing economic development and within the context of enforcement. We must publicize successful approaches to make those who think that economics and enforcement are competing interests aware of the opportunities for achieving both.

Finally, the major milestones being achieved in the area of free trade and increased international cooperation are putting new pressures on each government at all levels to ensure that their obligations are met in regard to environmental standards and pollution. Membership in the European Economic Community has already spurred commitments of each of its member states to meet the growing body of EC environmental regulations. While compliance has been uneven, the pressures within the Community are increasing substantially and will likewise affect those nations in Central and Eastern Europe wishing to join the community. These pressures also are evident in the "green" North American Free Trade Agreement, recently negotiated between the U.S., Mexico and Canada.

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Given the intensity of the program over the past four days, in one sense we are ready to go home and reflect upon what has been discussed here. But more has occurred than can be measured by the points raised in presentations or discussions. We will all go home with a renewed commitment to continue to improve environmental enforcement, to continue to develop the new friendships and professional relationships we have made, and to continue to exchange useful experiences on the most effective ways to achieve compliance with environmental requirements.

In Utrecht, we began with representatives from 13 nations and two international organizations, focusing on the U.S., Netherlands and Western Europe. In Budapest, the Commission on the European Communities joined sponsorship and we have representatives from almost 40 nations and organizations, focusing on Central and Eastern Europe. We are pleased to be able to announce that the government of Mexico has offered to host the third International Conference on Environmental Enforcement. While we plan to focus on the problems of developing nations, and a regional emphasis on South and Central America, we also plan to continue to build upon the first two Conferences which focused on developed industrialized nations. Central and Eastern Europe and other regions of the world. The sponsorship will expand, to include the United Nations Environment Programme. We hope to have representatives from many more nations in this exchange.

Thank you everyone, and please keep the momentum going.

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