
THE EUROPEAN UNION NETWORK OF ENVIRONMENTAL ENFORCEMENT AUTHORITIES

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SUMMARY

An outline of the conceptual thinking behind the setting up of a network of European environmental enforcement agencies is given. The early development is reported together with more recent moves towards the establishment of the network as a formal part of the European Unions environmental protection strategy.

1 INTRODUCTION

During 1991 the Netherlands Ministry of Housing, Physical Planning and Environment conducted an extensive survey of European Community (now known as the European Union) organisations involved in the enforcement of environmental legislation. The initiative arose out of concern that the growth in environmental legislation had not been matched by improvements in environmental quality and from the need to ensure that all the links in the regulatory chain - legislation and standards, permitting and implementation, compliance checking and enforcement - must be strong.

The survey concluded that there was a need for greater consistency between EC Member states. Examples where inconsistencies were found included:

- administrative procedures;
- numbers of permits required;
- technical standards applied;
- charges made for permits; and
- public access to information.

Such inconsistencies or weaknesses were thought likely to impose unequal burdens on industry across the Community. It was therefore proposed that an environmental enforcement network be created within the Community. Similar networks were cited as examples of the benefits to be obtained from such systems, for example, for the implementation of the Seveso Directive, Senior Labour Inspectors Network, etc.

In addition, based upon a series of seminars and exchanges with the U.S. EPA under their bilateral Memorandum of Understanding, the Dutch Minister believed that their Presidency of the European Community offered a unique opportunity to seek to apply some of these experiences to forming a European network, despite obvious differences in the status of EEC member states as sovereigns. The Dutch Minister requested a special series of briefings in the U.S. to explore possible transfers of the U.S. experience to Europe. These briefings reviewed the full range of counterparts at the National and Regional levels, including its Steering Committee on the State/Federal Enforcement Relationship with high-level officials from all programs at the Federal, Regional and State levels.

The Dutch proposed that the following topics be included in the programme of the Network:

- exchange of experience in compliance testing, monitoring efficiency and effectiveness;
- analysis of elements of common interest, such as improvements to infrastructures for enforcement within and among Member States;

- training of compliance and enforcement staff;
- assisting the development of enforceable legislation;
- exchange of information on detailed guidelines' standards and procedures;
- evaluation of enforcement at the facility level; and
- informal exchange of advice on specific enforcement issues.

The Dutch study was considered at an informal meeting of Environment Council in October 1991, when the Presidency concluded that:

"...Ministers agreed that it would be desirable as a first step to establish a Network of representatives of relevant national authorities and the Commission in the field of enforcement, primarily aimed at the exchange of information and experience in the field of compliance and enforcement, and at the development of common approaches at a practical level."

2 THE CHESTER NETWORK

The Dutch study was considered at a meeting of the EC Environment Council on 12-13 December 1991 and as a result Ministers agreed to set up a Network of national pollution inspectorates. The UK offered to host the first meeting during its Presidency. HMIP was given the task by DOE of coordinating the UK input to the Network and of organising the first meeting. This was duly held in Chester on 3-6 November 1992.

The objective of the first meeting was to:

"Establish an EC Network of [national] pollution regulation inspectorates, agree the terms of reference of the Network and develop a suitable work programme for the group."

At the meeting the delegates overwhelmingly welcomed the establishment of the Network, the main aim was to provide a mechanism for the exchange of information and experience between environmental enforcement bodies within the European Union in order to address issues of mutual concern and to enhance the quality of enforcement.

They agreed that participation in the Network should be open to representatives from environmental enforcement bodies concerned with the regulation of major industrial installations within the member states and to the European Union.

They agreed that the Network should address the technical and practical aspects of enforcement, in particular through the following activities:

- exchanges of information and experience via a network of contact points in each country (to be set out in a Network Directory), and by convening regular meetings;
- exchanges of personnel between participating bodies;
- establishment of working groups to address specific issues of mutual interest; and
- provision of advice on practical and enforcement aspects in the development of environmental legislation.

The meeting agreed upon a framework for future work, including the establishment of working groups to examine the following:

- Working Group 1: The technical aspects of permitting;
- Working Group 2: The procedural/legal aspects of permitting;
- Working Group 3: Compliance monitoring and inspection;
- Working Group 3b: Transfrontier shipment of waste, case studies; and
- Working Group 4: Managing the enforcement process.

The second meeting of the Network took place in Copenhagen on 24-26 May 1993. All Member States of the Community took part in the meeting, which was hosted by the Danish Presidency and chaired by the Danish EPA. Apart from information exchange, the Network discussed reports from the five working groups set up in Chester.

2.1 Progress of the working groups

Following the first meeting of the Network in Chester there have been at least two meetings of each of the working groups. Each group had produced written reports which had been sent to meeting delegates in advance. All Member States agreed that the work of the working groups had been very constructive and useful.

2.1.1 Working Group 1: Technical aspects of permitting (Germany)

The group has made a thorough comparison between the implementation and enforcement of certain areas, mostly covered by EC directives.

These sectors were:

- technical licensing requirements for industrial plants
- large combustion plants
- oil refineries (no EC directive)
- waste incineration plants
- sewage treatment plants.

Large differences were found among Member States both in implementation and in practical enforcement, but the exchange of views which took place was found very useful. It was agreed that there was a need to continue the exchange of information, data and know-how and to look into the problem of translating standards into licences, in particular how the use of cleaner technology can be encouraged. The group is currently examining the cement, glass, aluminium, chipboard, pulp and paper industries.

2.1.2 Working Group 2: Legal and procedural aspects of permitting (UK)

The working group discussed a wide range of legal and procedural issues, including: legislative background; pre-application procedures; application procedures; consultation with public and other agencies; and decision making procedures (assessing application and producing a permit).

The working group agreed to the following terms of reference: To exchange information on the legal and procedural aspects of regulating industrial processes to protect the environment, and to include specific reference to implementation of European Union legislation.

The working group meeting had provided useful information about exchange of information and about systems in other countries, and the group agreed that it would be useful to know more about permitting systems in the Member States which were not present at the meeting. The working group meeting discussed the European directives on Environmental Impact Assessment (85/337), Freedom of Access to Information on the Environment (90/313) and on the Major-Accident hazards of certain Industrial Activities (85/501).

The second meeting of the working group involved exchanging information on legal and procedural aspects of the decision making phase of the permitting process, focusing in particular on procedures developed to:

- assess the application
- perform environmental impact assessment
- determine the BAT and BATNEEC option
- write the permit, including timing of issue, life-time of permits and public participation

2.1.3 Working Group 3: Compliance monitoring, inspection and enforcement of permitted installation (Denmark)

Working Group 3 has exchanged information on compliance checking, inspection, monitoring and enforcement. A special topic being examined is the statistical analysis of inspection and enforcement functions, such as: enforcement tools and enforcement practices; problems related to measurements of efficiency in enforcement; and the relationship between discharge compliance monitoring and environmental quality.

The group is currently considering:

- the experiences on inspection and enforcement in authorities with an integrated and non integrated approach
- the experiences on enforceability of various EEC directives
- a model or alternative models for effective enforcement and effective use of enforcement tools
- the relation between environmental monitoring and compliance checking
- experiences with proceedings and standards of sampling as a part of inspection and enforcement
- making a survey of the annual reports, that are issued by inspection and enforcement authorities around the EEC countries

2.1.4 Working Group 3: Monitoring and enforcement concerning the transboundary shipment of hazardous waste (The Netherlands)

Ad hoc Working Group 3 has developed a project involving a detailed case study including:

- a desk study;
- company visits;
- transport inspections; and
- sampling hazardous waste.

The waste streams selected for the desk study were paint waste and chlorinated solvents. This was successfully carried out and the group is currently:

- consolidating the operational network built up so far to ensure cooperative regular enforcement activities;
- starting a second project in 1994 on a larger scale to:
- extend the network (e.g. Italy, France, Spain);
- get more experience and results to develop a structural network at EC level;
- achieve more effective enforcement.

2.1.5 Working Group 4: Managing the enforcement process (The Netherlands)

Working Group 4 discussed several possible initiatives as well as short term and long term objectives. Priority was given to providing mechanisms for the exchange of qualified inspectors, and to developing a training manual and a database of inspector skills.

3 IMPLEMENTATION NETWORK (ECONET)

Within the space of a year, the Chester Network as it is known, developed from the embryonic state to addressing practical regulatory issues across the wide spectrum of the authorisation and enforcement process. The next stage was to build upon the good work being done. But this was

complicated by the need for the Network to fill the role for an implementation network envisaged under the European Commission's Fifth Environmental Action Programme.

Chapter 9 of the Commission's Fifth Environmental Action Plan contains the following reference to the establishment of the Network:

"Integrated implementation and enforcement mechanisms will be developed as a first step; following this an IMPLEMENTATION AND ENFORCEMENT NETWORK of environmental inspectors and enforcement bodies of the Member States and the Commission, with the assistance as necessary, from the European Environment Agency will be established. The purpose of the Network will be to promote consistency and equality in the implementation and enforcement of Community policy and rules between the Member States. This will involve, inter alia, a continuing review of progress and problems in the implementation of legislation, exchanges of information on technical developments, compliance initiatives and precautionary actions and assessments of the training needs of enforcement officers. Member States might also avail themselves of the Network's expertise or assistance for advice on local or national compliance mechanisms, audits and reporting arrangements."

The third meeting of the Network was held in Steenokkerzeel on 9-10 December 1993, with participants from the United Kingdom, Denmark, Greece (Ellas), Germany, France, Spain, Ireland, Netherlands, Luxembourg, Portugal, Belgium and the European Commission.

The meeting considered the reports from the working groups and how the Chester network might expand its activities to cover the work envisaged for the network proposed under chapter 9 of the Fifth Environmental Action Programme. The participants reiterated their common desire to continue to work on a cooperative basis to promote the consistent and effective implementation, application and enforcement of environmental legislation throughout the Community and agreed to pursue the work initiated in Chester in the form of a EUROPEAN COMMUNITY (UNION) NETWORK FOR THE IMPLEMENTATION AND ENFORCEMENT OF ENVIRONMENTAL LAW (ECONET), in accordance with the objectives, organizational arrangements and work programme set out in Annex 1.

The meeting also agreed to revise the terms of reference of Working Group 2 to cover the activities envisaged under the Fifth Action Programme i.e. the working group will exchange information on the procedural and legal aspects of regulating processes to protect the environment, with a special emphasis on the implementation of European legislation.

In particular, the group will focus on:

- examining and discussing in depth the applicability and application of existing Community legislation;
- collecting the factual data necessary to compare applicability and application;
- tackling problems experienced by Member States in the practical implementation of Community legislation;
- making known, through the network, the views and recommendations of those responsible for implementing legislation in order to ensure that past experience is duly taken into consideration in the development of new legislation.

The following areas of Community legislation were identified for consideration by the group in 1994-1995:

- water
- air
- waste

The group will examine the implementation and practical enforcement of these Directives in the context of the legal, organisational and judicial structure of the Member States, and use examples of particular industrial processes to facilitate the analyses.

Working groups 1, 3 and 4 will continue to work in accordance with their existing terms of reference. as agreed at the Chester and Copenhagen meetings.

4 CONCLUSIONS

The Chester network of environmental enforcement authorities has developed from concept to being an integral part of the implementation of EU legislation. It also serves as a very practical forum for informal exchange of ideas and experience among those at the working face of environmental regulation. One thing is very clear. The problems associated with protecting the environment from industry activity are common to most if not all countries. Sharing experience through well organised but largely informal networks can help each of us do our job that much better.

ANNEX 1**TERMS OF REFERENCE OF A EUROPEAN UNION NETWORK FOR THE IMPLEMENTATION AND ENFORCEMENT OF ENVIRONMENTAL LAW (ECONET)****I. Objectives of the Network**

The objective of the ECONET is to create the necessary impetus in the European Union to make progress on ensuring a more effective application of environmental legislation. The network shall promote the exchange of information and experience and the development of a greater consistency of approach in the implementation, application and the enforcement of environmental legislation, with a special emphasis on the Union's environmental legislation. It shall provide a framework for policy makers and environmental inspectors and enforcement officers to exchange ideas both jointly and separately and to encourage the development of enforcement structures.

The implementation, application and enforcement process includes:

- the elaboration of national legislation and action programmes as required by European law;
- the administrative and technical task of translating national and European legal standards and action programmes into specific requirements for particular activities through permitting and other appropriate procedures;
- the monitoring of compliance with environmental requirements through inspection procedures and other appropriate instruments; and
- the enforcement of environmental requirements.

II. Organizational Arrangements

The network shall build on the existing arrangements established at Chester. It shall continue to work in an informal way for the time being (Phase 1). Based on the experience acquired during the informal phase, the European Commission will consider submitting a proposal for a legal instrument to the European Environment Council before the end of 1995 (Phase 2)

During the first phase, the network shall consist of a plenary meeting chaired jointly by the Member State holding the Council Presidency and by the Commission and working groups shall be chaired by the lead country or by the Commission. The number and duration of working groups shall be limited. Their terms of reference shall be determined by the plenary meeting. The network shall operate not only through meetings, but also through national coordinators and on the basis of correspondence, information technology and other channels of communication.

The costs of the network shall be borne jointly by the Member States and the Commission. The Commission will provide logistical support and secretarial assistance for the plenary meetings. The secretariat of the working groups shall be ensured by the lead country or the Commission, where it holds the chair.

