
DRIVING FORCES FOR ENVIRONMENTAL COMPLIANCE AND ENFORCEMENT: SUSTAINABLE DEVELOPMENT, INTERNATIONAL TRADE, PUBLIC PRESSURE AND INVOLVEMENT IN DECISION-MAKING AND THE IMPLICATIONS FOR CLEANER PRODUCTION, ENVIRONMENTAL LAW, AND SUSTAINABLE DEVELOPMENT

OLEMBO, REUBEN: KEYNOTE ADDRESS

Deputy Executive Director, United Nations Environment Program, P.O. Box 30552, Nairobi, Kenya

INTRODUCTION

It is a great pleasure to represent UNEP at this important international conference on environmental compliance and enforcement. Elizabeth Dowdeswell, UNEP's Executive Director, sends you her greetings and best wishes for a successful conference. She personally wanted to give you UNEP's unwavering support in your efforts to develop and perfect the art of environmental compliance and enforcement in your countries. This is often a very difficult task, particularly during a period of intensive global competition, deregulation and government and corporate cutbacks. But this task is also a critical one, and UNEP recognizes that it is you, government policy makers and officials, who are on the front line. You have the ultimate responsibility of seeing that everybody meets at least minimum environmental standards. You also have the very difficult task of finding ways to encourage people to voluntarily go beyond the requirements of environmental laws and regulations.

Today I have the privilege of conveying UNEP's message of encouragement and support, together with several of my colleagues from our regional offices and our Industry and Environment office, who you will be meeting during the UNEP workshops.

1 Sustainable Development

You are about to immerse yourself in the multifaceted aspects of the art of compliance and enforcement, benefiting from an international cross-section of experiences and perspectives that is unique to this biannual forum. With such a full and diverse agenda, it may be hard to see the forest for the trees, to have a clear vision of why we are here. So I want to review the driving forces behind environmental compliance and enforcement programs. I say review because these driving forces are not new to you of all people, but they are nonetheless important to keep uppermost in our minds if we are to come out on Friday with a clear sense of vision not only of why we are here, but of the way forward when we get back to our offices.

These driving forces include the inescapable realities facing our planet today as well as the broader influences and trends which affect them.

Ultimately, there is only one driving force. It is of course the inescapable need for environmental protection and sustainable development. In its simplest terms, sustainable development means making sure that development meets the needs of the present without compromising the ability of future generations to meet their own needs. Environmental protection and management are at the heart of sustainable development, along with economic growth and elimination of poverty. We need to focus on six global environmental priorities if we are to make real progress in moving towards global environmentally sustainable development. These are:

1.1 Atmosphere and climate

The thin skin of air that surrounds the planet is being affected by human activities as never before. Air pollution does not respect boundaries. It affects agriculture and ecosystems far from its source. Many people living in urban areas (45 % of the global population and growing) are exposed to unacceptable levels of air pollution. Forests are still being degraded by acid precipitation caused by air pollutants. Depletion of the ozone layer, causing increasing exposure to the sun's ultraviolet radiation, is an ongoing concern. The link between human activities and global warming is increasingly undeniable, posing mounting threats of climate change, floods and droughts.

1.2 Deforestation and desertification

About 25 billion tons of topsoil are lost each year to erosion; about 15% of the earth's land area has been degraded to some degree. Countries with the least amount of resources in terms of the ability to act or to absorb the societal and economic costs, are often the most affected.

1.3 Fresh water and oceans

Freshwater for human use is a fragile, finite resource. Agricultural, industrial, domestic and municipal needs are stretching hydrological systems to the limit. Overfishing and pollution of oceans are posing severe threats to fish stocks and marine ecosystems, a vital part of the global food supply.

1.4 Toxic chemicals

Some of the more than 50,000 different chemicals produced annually can be toxic or carcinogenic. When toxic substances accumulate in the environment and in food chains, they can profoundly disrupt biological processes. Much more is still unknown than is known about environmental toxification

1.5 Biodiversity

We are experiencing the greatest extinction of species since the dinosaurs disappeared 65 million years ago. This is a result of the combined effects of rapid conversion and degradation of habitat for human use, overharvesting of animals, fish and plants, pollution (accidental and deliberate), introduction of exotic species, global climate change, industry, agriculture, forestry and other activities that destroy or impair natural ecosystems.

1.6 Energy and natural resource consumption

Current global consumption patterns are not only inequitable, but are environmentally unsustainable. Industrialized countries are the largest consumer of energy and currently consume about 3/4 of many of the globe's important resources (e.g. metals, energy, commodities). But developing countries are set to become the largest users of energy in the next century and many also have unsustainable patterns of consumption today. The issues are controversial and complex, and technology is not a panacea, even if it could, as some say it must, increase resource productivity by a factor of ten over the next ten to thirty years. And market economics, because they fail to internalize environmental costs, have their limits as well.

This is the hard reality which is the ultimate driving force behind the need to build institutional capacity for environmental compliance and enforcement. These environmental priorities were discussed at length at the 1992 Earth Summit, the largest international conference ever held, drawing an unprecedented number of heads of state. Chapter 8 of Agenda 21 specifically encapsulates the need to build compliance and enforcement capacity as an essential element of environmental management. It calls on countries to “develop integrated strategies to maximize compliance with its laws and regulations relating to sustainable development”. It specifies the need to develop effective laws, regulations and standards, promote and review compliance, and detect and establish violation priorities. It also calls on countries to undertake effective enforcement, conduct periodic evaluations of the effectiveness of compliance and enforcement programs, and establish mechanisms for appropriate involvement of individuals and groups in the development and enforcement of laws and regulations.

2 OTHER DRIVING FORCES

Then there are some broader driving forces. There are three which I think are the most useful to keep in mind: 1) public demand; 2) industry; and 3) international trade, standards and law. They are all equally important. If they are not acutely felt in your country at the moment, they probably will be in three to five years.

2.1 Public demand

First, public demand, one of the most vocal of societal driving forces. Public awareness of environmental issues is growing. Concerned and motivated individuals, with the kind of support and contacts made so easy by global networks today, can mount sophisticated campaigns to shut down a polluting factory, boycott a company’s products, influence financial decisions, call into question a government’s credibility or force it to take action. Public demand has stimulated a great deal of positive change in many countries, legitimizing government’s authority to institute higher environmental standards, encouraging companies to go beyond them, signaling the alarm in the case of misdemeanors, and providing new markets for those who are first to catch on. As a country’s economy develops, so does its people, so does public demand for a better environmental quality of life. There is growing public recognition that environmental management and economic development are flip sides of the same coin.

Public demand is not just a driving force, it is also a resource. The earlier it is used, the less costly it becomes. Involving the public not only in reviewing permit applications and monitoring compliance, but also early in key government decision-making processes will prevent many of the mistakes, misunderstandings and false perceptions of the past or of other countries. The process of public involvement in environmental decision-making and protection will vary from country to country, and may require concerted effort in places not used to consulting or involving the public. But in an increasingly complex world, government can no longer expect to have all the scientific, technological, social and economic expertise required to make sound decisions. The earlier it consults and involves those outside its offices, the better.

2.2 Industry

Another driving force for government compliance and enforcement programs is a little more subtle, but one which will have an increasing influence, particularly where public demand may be left wanting. This is none other than industry itself. It is an increasingly competitive and global world for industry. The companies that are going to survive are the ones that understand that cleaner production (that is, good housekeeping, raw material and energy conservation, and

substituting toxic chemicals) is not only good for the environment and public image, it makes economic sense. They are the leaders with a good deal of influence in industry associations that represent and promote the industry's interests. A growing number of such industry associations are using voluntary codes of conduct to promote best environmental practice (the UNEP Industry and Environment office is currently producing guidelines on such voluntary industry initiatives). Industry associations have a collective interest in protecting the public image of the industry. One poor performer among them can spoil it for the rest. They rely on effective government compliance and enforcement programs to provide a level playing field and to keep the lowest performers in the industry from undermining public goodwill and using the environment to undercut their competitors. And in a global economy, industry associations are having an increasingly global reach.

2.3 International trade

This brings us to our third broad driving force: international trade, standards and law. As we all know, industry interest in a level playing field extends beyond national borders, as does environmental protection. Forgive me for bypassing the complex and sensitive subject of international free trade agreements and the criticism that they settle for the lowest common denominator in the effort to "harmonize" national standards. Too often this discussion devolves into an inconclusive debate on which comes first - the chicken or the egg? I'd rather focus on a more encouraging, emerging aspect of international trade which could bring about a small revolution on how international business conducts its purchasing and supply decisions. This is the setting of environmental management standards by the International Standards Organization which are to come into effect this year. Like all ISO standards, the ISO 14000 standards on environmental management systems, environmental auditing, environmental performance evaluation and others, are voluntary. But a few years ago, the ISO set parameters for measuring total quality - ISO 9000 - and look what happened - you need it if you want to do business outside national borders. Why is this a driving force for government compliance and enforcement programs? Well, if you want your countries' industries to be internationally competitive, you'll need them to be up to speed on environmental management. Many companies are already lining up for ISO 14000 certification.

Voluntary ISO standards will not of course solve many of the global environmental issues that face us today. There will still be a pressing need for legally-binding and global environmental agreements such as the Convention on the Illegal Trade in Endangered Species of Wild Fauna and Flora (CITES), the Montreal Protocol on Substances that Deplete the Ozone Layer, and the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, and the Convention on Biological Diversity. UNEP provides the secretariat and other support for each of these multilateral agreements but relies on national governments to ensure compliance and enforcement.

3 CLEANER PRODUCTION AND ENVIRONMENTAL LAW

Environment protection and sustainable development, public demand, industry expectations, and international trade standards and agreements are the key driving forces to keep in mind throughout the week. If I could add just one other thing to keep in mind throughout the exchange of your experiences it is the whole issue of how to use government compliance and enforcement programs to promote a cleaner production approach among the regulated community. In the past, too much effort has been directed at single media enforcement (e.g. clean air, solid or hazardous waste, water treatment) which has too often led to an end-of-pipe

reaction by the regulated community, and merely transferred environmental pollutants from one medium to another. Any initiatives that are on the way to promoting cleaner production need to be highlighted in your exchange of ideas.

Helping governments to strengthen their institutional capacity to implement Agenda 21 is a key priority for UNEP. UNEP's Environmental Law Unit provides support to governments in developing the legislative framework needed for their country's environmental protection, and you will be hearing more about the environmental law activities from Lal Kurulkulasuriya from our Regional Office for Asia and the Pacific. UNEP's Industry and Environment office has a twenty year history of working with governments, industry and NGOs in institutional capacity building for industrial compliance, particularly in the areas of cleaner production, accident prevention and emergency preparedness, and environmental technology assessment. Later today, John Skinner, Senior Advisor at UNEP Industry and Environment will be telling you about these activities. And UNEP IE's training manual on "Industrial Environmental Compliance" will be used during the UNEP workshops on Wednesday to set the context for regionally focused discussions.

4 CONCLUSION

To conclude my address, I want to really thank the organizers of this conference. I can imagine the uphill battle it must have been to pull this together, particularly in today's climate of government cutbacks. But the need for international exchanges on environmental compliance and enforcement are essential if we are to move towards a cohesive global society meeting its peoples needs without undermining its ecological basis. UNEP is pleased to be associated with such a commendable effort, and would like to give a warm thanks to our partners in this conference the US EPA, the Dutch Ministry of Housing, Spatial Planning and the Environment, Environmental Law Institute, Environment Canada, the European Commission and our hosts, the Thailand Government.

Thank you.