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## **PUBLIC INVOLVEMENT IN ENFORCEMENT**

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### **GOALS**

The following are discussion issues for the workshop:

- The various roles that the public and citizens may play in environmental enforcement and achievement of compliance:
  - Public role as an economic and social force for compliance.
  - Role of citizens in identifying violations.
  - The role of citizens in pursuing enforcement actions or forcing governments to pursue violators (citizen suit authorities and trends in recent environmental legislation creating environmental bill of rights).
  - Citizen roles in commenting on settlement of violations and disputes on compliance.
- How the public role can be fostered as an effective force for achieving widespread compliance.
- Mechanisms used to empower citizen enforcement: what authorities exist in different countries and how this authority has been exercised.
- Relationships that might be established between governmental agencies mandated to enforce requirements and citizens empowered to enforce the law. What are the advantages and disadvantages of different relationships.
- How dependent an effective public role is on public disclosure of compliance information.

### **1 INTRODUCTION**

There were two workshops during the conference on the topic of how citizens can be involved in enforcement. Both groups had mixed nongovernmental and governmental participation. Although the flavor of the discussion differed greatly in each workshop, both groups reached certain common understandings of public involvement in environmental enforcement. The groups agreed that citizen enforcement should supplement governmental enforcement and be used to ensure governmental compliance with environmental laws. Both sessions focused on the conditions which facilitate citizen participation, such as access to information, independent judiciary, public awareness of enforcement needs, and a public right to enforce. In addition, the groups discussed how public enforcement takes place, including citizen monitoring of compliance, citizen complaint systems, and citizen enforcement lawsuits.

### **2 PAPERS**

Two papers were written on this topic. From Columbia, Mr. German Sarmiento wrote an article on the importance of public participation in enforcement listing judicial mechanisms available to the public in Columbia and stressing the importance of public access to information

as an essential condition necessary to use judicial tools. Another paper was written by the Environmental Law Institute about the evolving role of citizens in environmental enforcement outlining common strategies for public participation, new options for transboundary public participation, and examples of how international networking and cooperation is building capacity and infrastructures in the nongovernmental community.

### **3 DISCUSSION**

#### **3.1 Conditions to facilitate citizen involvement**

Participants established certain basic prerequisites for public involvement in environmental enforcement to be meaningful. These included a clear legal framework for environmental requirements, a transparent and accountable government, and an independent judiciary. The group also discussed the necessity to have clearly established rights, such as freedom of expression, freedom of press, access to information, and access to the courts. Finally, participants discussed the need for capacity among citizens to handle independent technical monitoring and assessment of environmental findings.

#### **3.2 How to accomplish citizen involvement**

Participants also discussed how to provide avenues for citizen involvement in environmental enforcement in practice. Citizen participation in policymaking was named as an initial method to involve the public in priority-setting and development of enforcement and compliance programs. Participants also gave examples of situations where citizens could supplement government inspectors to monitor compliance with environment regulation. Most participants also had examples of citizen complaint systems, which gave citizens an avenue for reporting alleged violations of the law or threats to the environment or human health. Many participants also mentioned education of the public as an important element of public involvement in enforcement. Finally, participants discussed citizen enforcement lawsuits which could be brought against the government to force it to carry out its enforcement duties, or against a violator to force it to obey the law.

### **4 CONCLUSIONS**

The discussion of one group led to a list of recommendations concerning public involvement in environmental enforcement.

- The public should have the right to a healthy environment.
- The public should have the right to enforce environmental law against any violator (including the government).
- The public should have the right to require the government to carry out its mandatory enforcement duties.
- Government should provide mechanisms for the public to enforce these rights in court.
- Government should build awareness among the public concerning environmental policies, enforcement needs, and the role citizens can play.
- Government should provide support and opportunity for the public to monitor environmental problems and to communicate those observations to the government.

- The public should have timely and affordable access to information necessary for enforcement efforts, including current environmental monitoring data.
- Government should provide financial incentives for citizen enforcement and remove barriers to citizen enforcement.