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## **ESTABLISHING INTERNATIONAL COOPERATION AND REGIONAL NETWORKS**

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### **SUMMARY**

This paper explains the benefits that are to be gained through international cooperation on environmental issues. The ways in which such cooperation can help policy makers and environmental regulators is described from the experiences of the United Kingdom as a Member State of the European Union. It is suggested that the lessons learned through these experiences are relevant to all countries.

### **1 INTRODUCTION**

We in the United Kingdom have just gone through a major reorganization of the inspectorates dealing with the compliance and enforcement of environmental legislation. From the first of April this year new Environment Agencies have been set up in England and Wales, in Scotland, and in Northern Ireland. These Agencies will have responsibilities for the control of certain kinds of pollution to all environmental media and will be the competent authorities for the implementation in the United Kingdom of much of the environmental legislation originating in the European Community.

The Agency for England and Wales comprises staff of the old National Rivers Authority, Her Majesty's Inspectorate of Pollution, and Waste Regulatory Authorities. It starts off with over 9000 staff with a wide range of expertise - from flood defense to the regulation of wastes from the nuclear industry. The complexity of the legislation and the industries regulated by the Agency would be daunting but for the fact that we are not alone. Not only do we have highly competent staff in-house, we can get advice and assistance from colleagues in the other United Kingdom agencies, and from government departments, consultants and academics.

But we would be foolish if our networking was limited to the United Kingdom. The Agency needs to tap into the knowledge and experience of environmental regulators throughout Europe, and worldwide, to help us do our job well.

This paper considers the benefits of networking from the perspective of policy makers and regulators. Although the detailed descriptions refer to Europe, the paper seeks to demonstrate that the principles have global relevance.

### **2 BENEFITS OF NETWORKING TO POLICY MAKERS**

To consider the benefits of networking to policy makers, let us start at the top, in United Kingdom terms, with a note from the Secretary of State of the Department of the Environment to the Prime Minister in August 1993. This stated:

*"We have done much to change the culture of (the civil service) in recent years. But there is one area where we need to do more. We need to encourage all Departments to be expert in their dealings with the rest of Europe.*

*If we are to be at the heart of Europe we need to make this change of culture across the whole of Government. Every Department needs to keep in touch with the earliest stages of policy formulation affecting its business, long before the Commission puts forward proposals. We also need to make sure that our officials are trained and properly prepared to deal with Brussels."*

A short history of the Community will provide an explanation of why the United Kingdom Department of the Environment needs closer links with Brussels and our partners in the European Union:

In 1957 the Treaty of Rome was signed establishing the European Economic Community. The essential objective of the Treaty was *"the constant improvement of the living and working conditions of the European peoples."*

No mention was made of environmental protection, but within a few years it was realized that common standards were needed to protect consumers in order to ensure the free circulation of goods among the Member States. Hence the first environmental legislation dealt with products - dangerous chemicals, motor vehicles, and detergents. This legislation was based on Article 100 of the Treaty of Rome which dealt with the harmonization of laws in Member States "as directly affecting the establishment and functioning of the Common Market."

The Treaty was amended in 1987 and the Amendment mentioned the environment. In fact, it identified a linkage between environmental protection and the quality of life and introduced a series of new Articles - 130r, 130s, and 130t - on the goals, means and procedures of environmental protection. Most legislation under these Articles needed the unanimous approval of the Environment Council; in other words, a Member State could veto a proposal even if all other countries were in favor.

The next major step was taken in December 1991 with the signing of the Treaty of Political Union in Maastricht. This requires that environmental concerns must be considered in the formulation of all policies of the European Community, and it extends the application of a "Cooperative procedure" to environmental legislation under Article 130r. This means, in essence, that no single country can veto a proposal under this Article. (However, Member States still have a veto in some environmental areas.)

The fact that most environmental legislation requires a cooperative procedure makes a big difference to the way that the United Kingdom deals with Europe. Without a veto, a country can influence proposals for new legislation only by gaining the support of other countries.

The expansion of the Community in 1995, when Austria, Finland, and Sweden joined, has meant that more countries need to be united to obtain a change in a proposal. So it is not surprising in the post-Maastricht Europe that the Department of the Environment is forging closer ties with similar Ministries in other countries.

### **3 BENEFITS OF NETWORKING TO REGULATORS**

What role, you may ask, do environmental regulators have in all this? Why does the Environment Agency, for example, need to coordinate with organizations in other countries? Again we shall recount some history:

The growth in environmental awareness from the original Treaty of Rome to Maastricht has been mentioned above. This growth was matched by a proliferation of environmental legislation by the European Community throughout the 1980s, over 200 environmental Directives and Regulations being adopted.

But what happened to this new legislation after approval by Council and publication in the Official Journal? Was it being enacted in all the Member States? How did different countries go about the processes of transposing EC legislation, setting standards, issuing permits for industrial process, implementing regulations, compliance checking, and enforcement? Were there weaknesses in this regulatory chain?

To answer these questions the Netherlands Ministry of Housing, Spatial Planning and Environment embarked, in 1991, on a survey of organizations in each Member State involved in the enforcement of environmental legislation. The survey investigated the different procedures for standard setting, permitting, compliance assessment and enforcement.

The results of the survey and subsequent actions were reported at the Third International Conference on Environmental Enforcement (ref. 1). In summary, the survey found inconsistencies in a number of areas, for example:

- Administrative procedures.
- Permits required.
- Technical standards applied.
- Charges made for permits.
- Public access to information.

Some of these inconsistencies were thought likely to impose unequal burdens on industry across the Community as well as unequal threats to the environment in different countries. The survey results were presented, in October 1991, to an informal meeting of Environment Ministers who 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.”*

At a meeting of the EC Environment Council on 12-13 December 1991 the United Kingdom offered to host the first meeting of the Network during its Presidency. This meeting was held in Chester from 3-6 November 1992. Subsequent meetings of the Chester Network, as it was then known, were held in Copenhagen in May 1993 and at Steenokkerzeel (Belgium) in December 1993.

Some changes were agreed to in the terms of reference of the Network at Steenokkerzeel so as to incorporate certain requirements of the European Commission's Fifth Action Program. The changes gave the Network a wider mandate for the application and control of environmental legislation - focusing particularly on Community legislation, but also addressing that of Member States. It was agreed that the Network would also seek ways to ensure better implementation and enforcement by local and regional bodies, and that future plenary sessions would be jointly chaired by the Commission and the country holding the 'Presidency' of the European Union. At a subsequent meeting it was agreed that the modified Network should be known as the European Union Network for the Implementation and Enforcement of Environmental Law - the IMPEL Network.

## 4 STATUS OF THE IMPEL NETWORK

The IMPEL Network continues to provide opportunities for dialogue, at the European Union and national level, between policy-makers, environment inspectors and enforcement officers, allowing exchanges of ideas and experiences leading to the development of better enforcement structures.

During the past two years, plenary meetings have been held in Athens (May 1994), Munich (November 1994), Paris (June 1995) and Madrid (November 1995). These have considered broad issues related to implementation and enforcement and have provided direction to four Working Groups and an ad-hoc Group.

This period has seen the establishment and growth of the European Environment Agency - one of the most exciting environmental initiatives of the European Union. The Director of the Agency was invited to attend the Munich plenary and share his thoughts on the future role of the EEA and its possible interaction with the IMPEL Network. In his talk he foresaw the following areas of cooperation:

- Exchange of information on monitoring techniques.
- Helping to influence policy makers.
- Development of best practices.
- Reports on control of transboundary effects.
- Technical aspects of permitting.
- Eco-audit experiences.
- Statistical systems.

The Network looks forward to exploring these issues with the Agency. In addition, the Agency has agreed that IMPEL members can make use of the wide-area computer network that it is establishing across all Member States for the transfer of environmental data.

Much of the work of the plenary sessions is devoted to the receipt of reports from the various Working Groups, and to the identification of priorities for their future work. The progress of these groups in the past two years can be summarized as follows:

### 4.1 Working Group 1: the technical aspects of permitting

The Group has compared technical standards and pollution control technology for various types of facilities in each of the Member States. As a result, it has proposed technical guidelines which, though they have no official status, will provide useful guidance for regulatory bodies.

To date, the Group has looked at power plants, incinerators, refineries, and cement and glass production. Future work will consider the production of steel, aluminum, ethylene, varnishing compounds and chip board.

### 4.2 Working Group 2: on procedural and legal aspects of permitting

This Working Group exchanges information and compares experience on the permitting of industrial installations in the Member States. The discussions address specific pieces of EC legislation, such as Directives on large combustion plants, incinerators, or refineries, and horizontal issues, such as the cross-media assessment of the environmental impact of industries.

The group also examines the application of EC legislation in Member States and the practical aspects of the regulatory process.

#### 4.3 Working Group 3: on compliance assessment and inspection

This Group has done a comparison of the inspection and enforcement arrangements in all the Member States. A report on its findings is being produced which will outline the legislation, organizations and the mechanisms for inspection, monitoring and enforcement and will include statistics on complaints, inspection visits and enforcement actions.

One of the Group's future tasks will be to examine the question of self-monitoring by industry.

#### 4.4 Working Group 4: on management of the regulatory process

One of the Group's key activities has been to set up exchange programs for inspectors to provide an in-depth understanding of the regulatory systems in each country. Four- or five-day exchanges have been hosted by the Netherlands, Denmark, Germany, France, the United Kingdom and Austria at which 30 or more inspectors from all Member States have participated. Other countries will be taking turns to hold such "exchange weeks". Besides the knowledge gained through the discussions on legislation and through site visits, the contacts established during these programs greatly facilitate the future exchange of information between inspectorates.

Working Group 4 is also preparing 'skills and management' manuals for inspectors covering both the regulatory process and facility inspections.

#### 4.5 Coordinators

In addition to the plenary sessions and the working groups, members of the IMPEL Network have established National or Regional Coordinators. These have an important role in the dissemination of information relevant to the Network among and within Member States.

### 5 UNITED KINGDOM EXCHANGE WEEK

At this point it may be worthwhile to expand upon the subject of exchange programs and briefly recount the experience of the United Kingdom in hosting one of these weeks in October 1995.

The main aim which the organizers of the United Kingdom program set themselves was to persuade other countries in the practical benefits of Integrated Pollution Control. To achieve this aim, a program of lectures, working groups, and visits to industries in the Teesside area in the North East of England was arranged.

Each day had a specific theme:

Monday – Principles and Legislation of Integrated Pollution Control(IPC).

Tuesday – Practical Application of IPC Principles and Legislation.

Wednesday – Links between IPC and other regulatory instruments.

Thursday – Examples of practical successes of IPC.

Two inspectors were invited from each Member State and also from Poland, Hungary and Romania. In addition, an inspector from Gambia, who was on a training mission with HMIP at the time, was able to attend. To give participants a chance to become familiar with the industries, copies of the permits were sent to them prior to the exchange week.

Small groups of 5 or 6 participants were established, each with a United Kingdom inspector as guide. These groups remained together throughout the week.

First thing in the morning following visits to industrial sites, syndicate groups met to discuss the authorization process and inspection practice they had seen the day before, and compare notes on how things were done in different countries. A plenary session would follow with presentations on the regulatory system in the United Kingdom. Then, before lunch the syndicate groups would meet again to look ahead to the afternoon's site visit. During these sessions, the United Kingdom inspector would draw attention to various aspects of the authorization for the industrial process to be visited.

The feedback from the syndicate groups was very positive, the small size being particularly welcomed as this facilitated the exchange of information among the participants and enabled them to question industrial staff whom they met during site visits. The intimacy generated within the groups also encouraged openness with the guide inspector, and frank discussions of how similar problems would be resolved in different countries. Another benefit of the week for the United Kingdom was the enthusiasm generated in the guide inspectors to learn more about regulatory processes in other countries. Of course, thanks to the exchange week, they now know friendly contacts in these countries.

## **6 AD-HOC WORKING GROUP ON THE TRANSBOUNDARY SHIPMENT OF HAZARDOUS WASTE**

Returning to the Working Groups of the IMPEL Network, there is one other that we have not mentioned - the Ad-hoc Working Group on the transboundary shipment of hazardous waste.

This Group was initially set up to carry out a project, now referred to as the first Transboundary Shipment Project, or TFS-1. In this, five countries came together to examine the international shipments of solvents and paint wastes from 28 companies. The countries were Belgium, Germany, Luxembourg, the Netherlands and the United Kingdom; Italy became a sixth participant halfway through. The project identified a number of illegalities, such as the unauthorized completion of shipment papers to indicate that containers had been inspected when, in fact, they had not. At least one of these infringements of regulation led to prosecution.

In view of the findings of TFS-1, an expanded project, TFS-2, was set up involving more waste streams and more countries. This has been a resounding success. It has:

- Agreed standard procedures for use by regulators for the inspection and identification of trans-frontier waste shipments.
- Coordinated an international waste transport check in which over 4000 lorries in 9 countries were stopped and inspected in a single week in June 1995.
- Established working practices with national and international police forces.
- Set up a task force to formulate proposals for the practical implementation of financial guarantees.
- Investigated the options for electronic data exchange so as to facilitate faster and more effective information transfer between waste regulators in different countries.
- Arranged bilateral cooperation on issues such as the pseudo treatment of wastes.
- Made proposals to the European Commission for the establishment of a permanent technical officer forum to coordinate information exchange.

Discussions are being held between policy makers of Member States and the European Commission to establish a means for continuing the work of the two TFS projects.

## 7 PROBLEMS

Without doubt, the IMPEL Network has been a great success, but it can be improved:

The Plenary sessions need to define the objectives of the Network more clearly and provide a better steer for the Working Groups. There must also be a smoother continuity between succeeding meetings.

As for the Working Groups, some have found it difficult to get some countries to take part; the main problem being lack of funds. Collaboration among the different Groups could be improved and a concerted effort is needed to publish the reports they produce.

The National Coordinators also face problems. Their work in disseminating information within each Member State is fundamental to the value of the Network in terms of improving the professionalism of inspectorates. But this can be very time consuming and, as ever, resources are tight.

The Member States and the European Commission are working together on plans to improve the Network, particularly in the light of the Commission's intention to prepare, in 1996, a Communication to the Council of Ministers on the implementation and enforcement of Community environmental legislation. This work may redefine the overall context in which IMPEL operates and necessitate a restructuring of the Network. For example, until now the Network has focused on legislation linked to industrial facilities but it is recognized that, in due course, the range of activities could be extended.

In the mean time one small, but important, change has been agreed upon: the creation of a small secretariat to improve continuity between meetings and to ensure better coordination among Network members.

## 8 CONCLUSIONS

The paper has identified one of the reasons why the United Kingdom Department of the Environment needs to be involved in discussions in the European Community; that is, to influence policy and legislation at the initial development stages. The Community is unique in having supra-national authority, but we would argue that the same principle holds in all international fora to do with the environment—governments of as many countries as possible should be involved from the very beginning in the drafting of international protocols, conventions, standards, etc.

If we in the United Kingdom fail to influence the drafting of European policies, and proposals are put forward which are contrary to our national opinion, we now have two choices - accept it, or work with other Member States to bring about changes. No longer do we or any Member State have a veto on most environmental matters. Working with other countries inevitably requires compromise, but that can lead to a greater common good.

The same is true for regions other than Europe: agreeing a common position among different countries helps to ensure that the world community takes account of this position.

When we addressed the practical aspects of compliance and enforcement in the European Union, we mentioned the benefits that European Inspectorates have gained from the IMPEL Network - it provides a forum for the exchange of ideas with other inspectorates and enables all to learn from each others' experiences. The resulting improvement in professionalism helps achieve consistency in the application of environmental legislation, which is good for the environment and provides a level playing field for our industries.

The same argument can be made for countries worldwide. There is much that we can all learn from each other, whether it be through bilaterals or through multi-national networks. The Environment Agencies in the United Kingdom are keen to play a full part in such interactions, within and outside Europe.

Even though the IMPEL Network has been very effective, this paper has referred to the need for improvements. This same need applies to all international networks - they must be able to develop, to meet new requirements while maintaining the basic principles of cooperation and exchange. And, of course, while fostering informal contacts between members; we are convinced that this is one of the greatest benefits, and pleasures, of international networking.

## REFERENCE

1. Volume 1 of the Proceedings of the Third International Conference on Environmental Enforcement, April 25-28, 1994, Oaxaca, Mexico, p 323: "The European Union Network of Environmental Enforcement Authorities"; D. Slater