
AMERICAS REGIONAL MEETING SUMMARY

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GOALS

The goal of the workshop was to explore regional issues dealing with the major driving forces and barriers related to the development and sustainability of an effective enforcement and compliance program in each of the represented countries, including group discussions of problems and solutions. The group's expectations for this meeting and what it hoped to accomplish in the time frame allotted are as follows: (1) open and frank discussion of problems areas, participation in problem solving, how these problems were overcome and why actions were taken; (2) opening new lines of communication, cooperation, and coordination; and (3) in so doing the group would be able to reach a joint agreement and understanding of common achievable goals.

1 INTRODUCTION

Participants from the Americas were so numerous they initially met in two separate sessions, A and B, to permit greater opportunity for exchange. Combined sessions met together on the final day of the Conference to address ongoing networking opportunities and needs for exchange and cooperation. This report is a composite of both sessions and indicates when participants of only one session were involved.

2 DISCUSSION SUMMARY

2.1 Common themes within the region

Participants discussed common themes that provided a context for environmental programs within the region.

- Transition towards democracy

The transition towards democracy has introduced new social systems which in turn have raised public expectations, led to the emergence of an important role for NGOs, and opened access to information and communications.

- Changing concept of governance

Throughout the hemisphere there have been rapidly changing notions of how to govern with a shifting landscape of authorities, responsibilities and roles between the federal or national level and state or provincial and local or municipal levels of government. This is made even more complex by overlapping jurisdictions, and an uncertain and changing role for the judiciary.

- Changing concept of rule of law

Throughout the region, the concept of the rule of law is being embraced which has brought several changes. Among these are the passage of framework environmental laws, demands for consistent and fair environmental enforcement, new concepts of property with stronger property rights, an expansion of rights and standing to sue, criminalization of environmentally damaging conduct and corporate liability.

- Economic and social forces

All the countries in the region must deal with significant issues of poverty, economic activity which is not entirely visible to government regulators, development pressures, globalization of trade and industrial activity, privatization and debt service issues facing governments which require them to cut back or at least closely manage program costs.

- Trend toward free trade

The recent moves within the Americas to establish common markets is increasing both transboundary flows of legal and illegal waste and potentially hazardous and toxic chemicals, and increased environmental pressures related to tourism.

- Regional identity

There is a clear emergence of continental and hemispheric identity but a marked absence in the leadership and structures necessary to effectively follow through in the area of environmental protection. UNEP has been a regional constant but the promise of the “Oaxaca Declaration” which the participants from the Americas drafted and signed at the Third International Conference in Oaxaca, Mexico in 1994 for ongoing networking has not been realized.

- Limited resources

This includes human, technological, and financial as well as limited institutional capacity.

- International agreements

International agreements are playing a significant role in the development of environmental programs and their enforcement within the region.

2.2 Driving forces in the region for environmental compliance and enforcement programs

While there was some concern regarding the definition of the term public opinion, the group agreed that if it included issues such as public awareness, participation, education, the press, and NGOs, then it was the number one driving force throughout the region as it related to why governments have or need an environmental enforcement and compliance program. Secondary issues were determined to be: economics (e.g. marketplace pressure, tourism, international agreements), dedicated professionals, and highly visible sources of pollutants.

2.3 Barriers to successful environmental compliance and enforcement

The major barrier was determined to be limited resources (e.g. human, technical, financial) needed to accomplish the mission of the country's environmental organization. Secondary issues ranged from human nature (resistance to change, consumerism, lack of awareness/education) to political pressure and inter-governmental competition for resources to

fragmented laws and regulations to the lack of imaginative and/or flexible approaches to problem solving. These barriers add up to limited institutional capacity to implement environmental programs.

2.4 Compliance and enforcement issues of concern in the region

Discussions dealt with the following issues:

- General compliance and the need for a targeted approach (large emitters, risk related, etc.).
- The use of agreements and why the regulated community signs them (e.g. Are they buying time?)
- Are schedules needed to confirm compliance and are audits needed to verify aspects of the agreement?
- When is enforcement used for those who signed but have not yet reached compliance?
- What role do international agreements play in pressuring facilities into compliance?
- The need for both a carrot and a stick and the concern about industrial information being confidential and for what is it used: self-disclosure, enforcement, funding requests.

2.5 Common environmental challenges and priorities

Another group discussion was held regarding the environmental challenges and priorities with which each country must deal. As the group comprised a mix of country sizes, environmental organization experience and resources, political agendas and economic development plans there was no true consensus as to a specific major pollution source throughout the region or the effected medium from a specific source. However, many spoke to the need to control non-point sources (water, agricultural run-off, storm-water, etc), automotive emissions, and the after-effects of mining and natural resource exploration. In Canada and the United States the issues of greenhouse gases, climatic change, ozone depleting substances, and the misuse of land lead those media most affected. In Mexico, Chile, Paraguay, Nicaragua, and Panama each stated the need to control emissions from non-point sources, mining, and natural resource exploration. The islands of the Antilles and Aruba spoke to the need to control oil refinery discharges and small businesses (solid/hazardous waste disposal).

2.6 Country examples

Discussions provided an opportunity to highlight some country programs, summarized in Annex 1.

2.7 Existing networks within the Americas for environmental exchange

Participants identified many existing networks within the region for both bilateral and multilateral cooperation on environmental matters. These include:

- NACEC — North American Commission for Environmental Cooperation, involving Canada, U.S. and Mexico

- Environmental Enforcement Associations (USA state associations which include some border states in Mexico and Canada)
- Canadian Association of Wildlife Enforcement Directors
- Summit of the Americas
- Central American Alliance for Sustainable Development (ALIDES)— CONCAUSA Declaration
- La Paz Agreement (U.S.- Mexico)
- Central American Commission for Environment and Development (CCAD)
- Organization of American States (OAS)
- Interamerican Bar Association
- Central American Interparliamentary Commission for the Environment and Development (CICAD)
- CSJ
- Bilateral Agreement
- Mexico - U.S. Integrated Border Environmental Plan (IBEP) “Border 21”
- Mercosur - Southern Common Market Agreement (Working Group to Harmonize Environmental Laws)
- Proposed Environmental Center for the Amazon Region
- Amazon Treaty
- Andean Pact (Pacto Andino)
- NGO Network (Environment and Natural Resources Foundation is a member) from Paraguay, Uruguay, Brazil, and Argentina
- Informal Enforcement/Compliance Officials Networks of “Working Level Officials” (e.g. Yukon/Alaska)
- ICLEI - Urban Environmental Problems (Based in Canada — works in Latin America)
- Megacities NGO
- Environmental Indicators Network (UNEP and CIAT - Cali, Colombia)
- Grupo de Rio
- Grupo de los Tres
- Mexico/Central American Agreements
- UNEP/ROLAC - United Nations Environment Program - Regional Office for Latin America
- Canadian Association of Environmental Enforcement Officials
- Inter-American Convention on Human Rights and the Court of Justice
- IUCN Regional Chapter
- OECS - Organization of Eastern Caribbean States

Only a few of these networking mechanisms now address environmental compliance and enforcement issues. The participants then focused on what the needs were for networking and how best to use these or develop additional avenues for cooperation.

2.8 Networking needs for environmental compliance and enforcement for the Americas

Several areas of networking needs were identified in six broad topical areas.

2.8.1 Information

Participants identified the importance of having the following types of information to support enforcement program implementation, networking and capacity building:

- Establish an internet conference on environmental enforcement. The host vehicle could be Environ\$en\$e Database sponsored by US EPA or the NACEC Network.
- Directory of governmental ministries and agencies listing key contacts.
- Directory of NGOs listing key contacts.
- List of environmental offenders, in particular, information on the operation and compliance status of multinationals operating within respective countries.
- Compendium of environmental legislation (NACEC has North American Environmental Laws on-line)
- Working lists of environmental and enforcement priorities in other countries.
- Directory of available training resources.
- Compile list of libraries (NACEC library available on-line).
- Ensure access to other key documents and reports such as:
 - Copy of Portland Model Act on Crimes Against the Environment.
 - UN Secretary General Report on Environmental Crimes.

While the group supported the use of the internet for making this information available, other mechanisms for sharing information were discussed. Two specific offers to enhance information exchange were made including:

- Special issue of Brazilian Law Review on Environmental Enforcement and Compliance (W/ Contributions of Two Groups)
- Mr. W. Futrell, President, Environmental Law Institute (ELI), volunteered to develop and distribute a newsletter dealing with regional issues of compliance and enforcement as a follow-up to this meeting.

2.8.2 Training

Participants discussed the need for training programs to be developed and delivered, operated and staffed by people from the region who are familiar with regional issues and can offer relevant experience to their counterparts. Training resources should be:

- Focused on the needs and priorities of the region.
- Translated to language and custom.
- Hands-on practice and experience.

Participants also discussed the need for a compendium of training needs and training resources. This would potentially be a project developed as a cooperative project between UNEP and individual countries.

Following one of the presentations a need was identified regarding the use of technical assistance personnel and the role cross-cultural awareness and sensitivity plays in developing and maintaining international relationships. The group as a whole agreed that it was better to send a culturally aware staff member than one whose sole qualification was being an expert in a specific field or function.

2.8.3 Organize a “Caucus of the Americas”

Given the many different vehicles for networking and the need to establish a focus and to set priorities, the participants discussed the need to establish a “Caucus of the Americas.”

The Caucus would provide input into agendas for:

- Exchange about common issues.
- Setting regional priorities.

It was decided that regional issues that were defined and listed would include not only enforcement issues but also financial or technical aspects of compliance and prevention issues as well.

2.8.4 Sub-regional networks on particular geographic issues and problems

Participants agreed that to really begin to solve certain types of environmental issues, the region would have to support the organization of smaller, more focused networks on the basis of geographic and specific issues of interest. This could be accomplished through face to face meetings or via the internet-Environ\$en\$e.

3.8.5 Establish a task force for follow-up

A small group of dedicated and interested people is needed to:

- Plan the next steps.
- Seek governmental involvement and support.
- Seek sources of funding.
- Get academics involved.
- Get judicial, executive, legislative involved.
- Develop proposal for the next meetings within the region and internationally.

This same group of volunteers would serve as a liaison with the Executive Planning Committee for the Fifth International Conference on Environmental Compliance and Enforcement and provide agenda items for regional meetings to be held before the next international conference. The results of these regional meetings should provide the focus and foundation of the 1998 Conference. If possible, financial support should be used to support these regional meetings, building to the Conference. Participants should even consider whether it would be preferable to have the Conference in 1999 or 2000, in order to give regional networks time to organize and meet. Regional rather than national linkages could then be identified during the Conference. The participants voiced concern that support for the Conference will decline unless all participants help to set the agenda to ensure that topics were of importance and relevance to each country, that the Conferences provide for translation when needed, and that exchange would be advanced by having all abstracts, documents and cases well in advance of the Conference.

4 CONCLUSIONS/NEXT STEPS

Participants in the Americas regional meetings from the Caribbean, South and North America found that there was a common context and theme that linked them together in addressing environmental challenges and environmental compliance and enforcement program design and implementation. The two Americas' sessions, meeting separately, independently reached the same conclusions. This consensus was reinforced and confirmed in a joint session.

Discussion focused on the value of establishing regional networks and on the notion of organizing regionally based meetings. Participants agreed on a new concept, a broadly defined "Network for Environmental Compliance and Enforcement for the Americas." This network would retain as its focus enforcement issues, but be inclusive enough to also address matters of law and policy. The network would help to meet needs related to increased communication and information through both individual and governmental actions. Proposals for action within six specific topics were then identified:

- Exchanging information.
- Training.
- Establishing a "Caucus of the Americas" to identify issues and set priorities.
- Establishing subregional networks to organize smaller, focused exchanges within the "Caucus" based upon geographic or other specific issues and interests.
- Establishing a task force to ensure Conference follow up and engage with the Executive Planning Committee for the next Conference

The internet was proposed as a vehicle to discuss environmental enforcement issues. Existing systems such as those sponsored by the U.S. Environmental Protection Agency (EPA) or the North American Commission on Environmental Cooperation (NACEC) might be used.

A regional inventory of people, programs, issues and organizations should be compiled to advance the development of a regional network. For example, directories which identify key contacts in government ministries and agencies, identify important contacts in non-governmental organization communities, list environmental offenders, identify available training resource contacts and courses, and identify library resources.

In regard to training, the needs and priorities of the region require training translated to conform to the language and customs, combined with hands-on practical scenarios based on relevant regional experience.

They identified many existing networks for addressing environmental issues but few with a focus on implementation, compliance and enforcement. The participants identified networking needs and mechanisms for follow up.

In particular, a small group of dedicated and interested volunteers will identify themselves to work with the members of the Executive Planning Committee in planning how the recommendations of the Americas groups can be achieved and incorporated into the 1998 Conference. These next steps include seeking additional involvement and support from participating governments; seeking alternative funding sources; and encouraging the participation of those representing academic institutions, the judiciary and the executive and legislative arms of government.

Agenda items for regional meetings to be held before the next international conference need to be identified. The results of these regional meetings should provide the focus and foundation of the 1998 Conference. If possible, financial support should be used to support these regional meetings, building to the Conference. Participants should even consider whether it would be preferable to have the conference in 1999 or 2000 in order to give regional networks

time to organize and meet. Regional rather than national linkages could then be identified during the Conference. Again, support for the Conference will decline unless all participants help to set the agenda.

The members of the Americas groups would like to pay special tribute to the hospitality and good nature of our hosts. The "Spirit of Thailand", a spirit of openness and support, provides a strong incentive for moving the content and results of future Conferences to ever higher heights. The will to improve environmental enforcement and compliance is here, is real and is waiting to be harnessed. We must not lose the opportunity.

ANNEX 1

1 Bolivian targeted approach

A brief presentation was given by the Bolivian representative that covered the current situation in which the principles of their environmental program is structured around four pillars representing the aspects of Social, Economic, Environmental Protection, and Governmental offices. Bolivia has adopted a policy of procedures that cover inspections and emission limits for new and existing facilities. Newer facilities face more stringent requirements in their permit approval and in the inspection of their facilities. Bolivia is undertaking a targeted approach looking at their largest emitters and those sites that are the greatest risk to the environment.

2 Mexican experience with decentralizing its program

Mexico's representative presented an overview of their environmental program and the current and future issues facing Mexico's environmental program. With movement towards decentralization of the organizational structure and responsibilities, there are concerns within the government itself, some of which aid in the resistance to change. NGOs don't believe the states and local governments can handle these new responsibilities, while industry is worried that the states will be too hard on them as they begin to assess fees to operate in their respective areas. Several factors will need to be addressed such as: the establishment of a state and local infrastructure; law reforms; increased public, academic, and NGO participation; and the need for local regional cooperative enforcement/compliance work groups. Many believe in Mexico that the Border Area (100 kilometers on each side of the Mexico-U.S. border) and what is happening as a result of bi- and trilateral international agreements will change and/or dictate what occurs throughout all of Mexico. As part of these agreements, third party audits, even from other countries and international organizations are becoming common place. Much has been learned from the binational work groups. Their experiences and group dynamics are being put to use as Mexico looks to its environmental future.

3 NACEC handling of the migratory bird kill problem in North America: international precedent

The issue of the Silver Lake migratory bird kill was brought up as a third party external audit and the effect that the outcome of this quick trilateral response will have on future international agreements and actions. The CEC was able to address the transboundary issue in a manner that was sensitive of the sovereignty issue, the need for better and faster communications (both between governments and outward to the public and press) and the need for financial support, enhanced coordination and technical assistance.

4 Chile's Program

The representative from Chile gave a brief overview of environmental management conditions in her country. As a first step towards the establishment of a national organizational structure, the National Environmental Commission (CONAMA) was given the responsibilities of oversight and coordination of Chile's environmental activities. Within the various governmental agencies and ministries there are over 3000 inspectors throughout Chile involved in some aspect of environmental enforcement. CONAMA is working to review: (1) the available resources; (2) the responsibilities of each institution; (3) the need for outside expert assistance; and (4) the individual training needs for each institution.

5 Nicaragua's program

Following these discussions a brief presentation was made by the representation from Nicaragua. While the establishment of an environmental management framework was signed into law in 1991, it wasn't until 1994 that problems with governmental micro/macroeconomic management, sustainable development, and other similar concerns were addressed and the Ministry of Environmental Directorate was created by joining the offices of Natural Resources and those of the Environment. Currently over 160 staff members of the Ministry work directly with the 143 major municipalities. There are no state, county, or regional offices and a framework for outreach needs to be developed to articulate this concern but resources are limited. The legal system is in the process of reform/change and several laws dealing with general environmental management, fisheries, mining, and water are pending final approval. There is a need to flesh out these bills through the development of regulations, norms and limits.

One of the major sector-based industries targeted for enforcement is tanneries. There are over 350 small to medium facilities currently operating through an international assistance program. A pilot demonstration project is underway with facilities that have the resources to utilize the results of this effort. Using a Japanese method, it is hoped that water discharges containing chromium will be reduced from 12,000 to 10 ppm. An inventory, mapping and indexing effort is also being performed in conjunction with the discharge reduction portion of this project. Companies are regulated to pay for the amount of pollutants they emit. The government was unaware that discharges were as high as 12,000 ppm and had originally thought that an acceptable limit of 0.5 ppm could be achieved without a large investment. There had been little enforcement activities prior to this project and a lack of information on the impact of these discharges to the environment which made decision making and priority setting difficult. One of the laws pending will address the issue of waste water discharges. A question was raised as to why the government doesn't hire more inspectors. The response was that while there is pressure internally from the public and externally via internationally signed agreements, the government is committed to an austerity program. However, the Environmental Ministry is getting bigger as others shrink in size. A question was asked about the ability of municipalities to join or consolidate their resources to better address the environmental issues confronting them. The response was that while there was no direct restriction to this process it was very difficult to actually implement such a plan of action. A new system has been developed to address this issue that incorporates Environmental Impact Assessment (EIA) requirements, permits, and inspections and steps are being taken to integrate public participation, community training and basic understanding of the new process itself. This has shown to be very hard to do and industry has indicated a strong negative reaction to this course of action. In the absence of regulations, international requirements, guidelines and standards are applied. This also pertains to multinational facilities as well. The pilot study mentioned earlier will be utilized as a guide for the future development and implementation of new regulations.

Nicaragua understands that passing a law is not enough to protect the environment and that through the process and framework of regulations and rules, public participation, and in the knowledge that every issue can not be resolved at once, hopes that a phased, integrated approach will in time overcome the impacts to its environment. A clear example of this is the cost to clean up refinery discharges that have polluted a local water supply. A U.S. \$60 million investment was needed to supply drinking water from an external source and the refinery has been requested to install U.S. \$40 million in control device equipment. Had the control equipment been put into place earlier the need for the \$60 million investment would have not occurred.

6 Netherlands Antilles

Another presentation was made by the representative of the Netherlands Antilles, who spoke about the new attention being paid to the environment as a result of increased public awareness and information received from questionnaires given out to tourists visiting the islands. The major concerns to the islands are emissions from the refinery and solid/hazardous waste disposal from small businesses. Due to ongoing governmental and bureaucratic conflicts within the government itself progress on regulations, policies dealing with enforcement and compliance, along with new or pending legislation has been slowed. Coupled with limited human and technical resources and the fact that the organization will never see much growth it is hard to develop and maintain a sense of motivation. To overcome these issues the inspectorates of each island work in cooperation with other governmental offices such as the police, traffic control, public housing, public works, and security to increase the number of field personnel available to address environmental concerns. Through technical and financial assistance received from the Netherlands, the islands hope to move away from the current individual strategic island plans and develop a common vision that sets priorities, improves communications and enhances cooperation. These efforts may require a bottom-up change in the way things get done. The translation of governmental endorsement for environmental issues to the implementation of actual policies is lacking. There has been heavy industrial lobbying to cut the cost of installing or putting into place practices currently required. A review of the process that sets discharge limits, assesses industrial accomplishments, and establishes standards needs to be undertaken. The use of international and other national standards should be considered. The inspectorates are working very hard to treat each industry sector in the same manner and to spread out its staff so that all industrial sites receive equal treatment. The atmosphere for change in the political and public arena is now.

LIST OF PARTICIPANTS FOR AMERICAS REGIONAL MEETING

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