
SUMMARY OF WORKSHOP: INTERNATIONAL ENFORCEMENT COOPERATION TO PROTECT SHARED RESOURCES AND PREVENT TRANSBOUNDARY POLLUTION

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GOALS

Discussions addressed the following objectives and issues:

- Identification of where cooperative enforcement has been undertaken.
- The context within which these activities were planned and carried out and what factors led to the commitment to undertake these kinds of activities, in other words, what the prerequisites were and whether there needs to be a broader program of common goals for the resource before enforcement cooperation could be considered.
- Options considered, reasons for the type of cooperation selected. Discussion should address issues considered such as confidentiality, rights to access, different environmental regulatory requirements and/or legal systems, resources, access to foreign courts.
- Results and effectiveness of cooperative enforcement. What is its promise and challenges that must be overcome for it to be more effective. What are its limitations.

1 INTRODUCTION

The countries and groups participating in the discussions of international cooperation represented a very wide range of views, experience and perspectives. This range included countries with a long history of bilateral or multilateral cooperation backed up by treaties and/or less formal documents to countries which were at the very beginning of the learning curve. The reasons for this were various. For example, two or more countries may have had a long-standing environmental problem that had led to cooperation for many years. Examples of this would be the Great Lakes in North America, the Rhine in Europe and the Mekong in Asia. Each of these literally screamed out for international cooperative efforts if any country was to enjoy success. No country could do it alone. On the other hand, there were countries where such problems had not emerged, or had only recently emerged and there was generally not a history of intergovernmental cooperation.

A variety of implementation issues were discussed, perhaps the most difficult being the issues relating to confidentiality of information and the role of the public and NGOs.

2 PAPERS

Papers related to this workshop include:

- Development of Cooperation Between Central Asian Countries in Solving Ecological Problems of the Aral Sea, *A. P. Mironenkov*
- Problems of Transboundary Environmental Impact Assessment, *S. Fülöp*

3 DISCUSSION SUMMARY

3.1 Defining Enforcement Cooperation

Enforcement cooperation was taken to mean a broad set of activities designed to develop, implement and constantly improve country enforcement programs. The term was used to include worldwide cooperation such as that encouraged by INECE, UNEP, etc. down to simple bilateral cooperation.

With regard to structure, both formal and informal arrangements are envisioned and were discussed. On the formal end of the spectrum were the International Treaties dealing with hazardous waste, ozone depletion, global warming, etc., and the cooperation required to implement them. On the less formal end of the spectrum were simple contacts among staff from different countries who may or may not be working to implement a written agreement. The less formal cooperative efforts, it was suggested, could include single telephone calls to warn of a problem that appeared to involve another country and informal meetings, 'pizza parties,' as one participant called them, to share common experiences. There was a general consensus that the more formal approaches and the ones with many countries involved require much more effort and resources to implement, although there was a strong feeling that more attention needs to be paid to the worldwide conventions.

The substance of the international cooperative efforts discussed ranged from capacity-building, such as several countries sponsoring a training session, to dealing with a specific environmental problem where enforcement could make an impact such as polluted lake with pollutants entering from two or more countries.

Thus, international enforcement cooperation was seen as an essential ingredient of every country's program that was worth the effort and that would pay off many times over if it can be accomplished effectively. The following parts of the report highlight the issues that were seen as most important in implementing successful environmental enforcement cooperation.

A range of examples of environmental cooperation were offered:

- The 1994 Nordic Environmental Agreement and joint citizen rights between Sweden and Finland.
- The Canada/U.S. experience in transboundary cooperation.
- Spain and Portugal's cooperation.
- Joint River Basin Cooperation.
- Cooperation in Southeast Asia in Forest Fires and transboundary hazardous waste.
- International cooperation on wildlife.

- Transshipments of radioactive waste.

3.2 Structural and Management Issues

There was considerable concern expressed about the ability of many of the participants to undertake cooperative efforts on anything except relatively localized issues.

3.2.1 Staffing

The problems discussed included insufficient staff to focus on international cooperation, no staff specifically assigned to the area of international cooperation, turnover of knowledgeable staff so that progress is frequently lost when a single key person leaves and finally, management changes wherein new managers decide not to emphasize international work.

3.2.2 Organization

Several countries mentioned that they had internal issues to overcome. These included lack of clarity as to who in the environment ministry is responsible for international matters - is it best centralized or delegated out according to subject matter? In addition, some participants noted that frequently the environment ministry will need the cooperation of other ministries in order to manage effective cooperative programs with other countries and these ministries may be unwilling or unable to participate.

3.2.3 Potential Solutions

Solutions to these problem areas were discussed. One key element appeared to be the designation of at least one individual in the environment ministry to be responsible for international programs. In addition, it was felt that it would be necessary for this person to be below the political level, or to have someone who would not be likely to be replaced involved, in order to maintain institutional stability in international work. One participant used as an example of instability the fact that so many of the participants at the Monterey Conference had not been at any of the earlier conferences, although there was also feeling expressed that different people becoming involved was inevitable and could be beneficial as long as there was someone, perhaps at a lower level, who was more likely to continue work on international cooperation to serve as a focal point in the ministry.

The feeling was that it is preferable if the international cooperation work is centralized, at least to the extent that there should be a coordinator. It was felt by most that without a single person or place in the ministry to go to that international cooperation could still happen but that it would be uneven and inefficient.

3.3 International Conventions

The majority of the participants felt that most international conventions and treaties were not integrated with the enforcement and compliance programs. Problems ranged from the lack of knowledge of the responsibilities agreed to in the international agreements to low priority for them in the Ministry to lack of staff. This area was viewed by most as a very challenging problem.

3.3.1 NGO Role and Confidentiality

One useful suggestion that emerged was that NGOs can play an important role by raising political awareness so that agreements that countries have signed get the proper attention. There was overwhelming opinion that NGOs were essential to the process of raising issues, developing the political will to act and involving the public in the development of solutions. It was felt that NGOs could be critical in getting governments to recognize that they had a common problem that required bilateral or multilateral cooperation. It was pointed out that the rapidly expanding electronic communications, especially the Internet, would prove to be extremely useful in getting information to governments, the public and NGOs. With regard to confidentiality of information it was noted that there are many different standards around the world with regard to what information is available and what information can be released to the public. The rapid expansion of electronic media makes this picture even more confusing as one can almost assume that a piece of information that becomes public anywhere will soon be public everywhere. This may lead to a reluctance in industry or governments to make information available thus making international cooperation more difficult. Finally, there was overwhelming agreement that the most pressing environmental issue calling for increased cooperation was hazardous waste shipment and disposal.

Finally it was expressed that there needs to be more participation during the negotiation process by those who are going to be expected to implement the convention.

There was a general feeling that the Basel Convention on the Shipment of Hazardous Wastes was of the most relevance to the enforcement and compliance agencies and thus there was more focus on its implementation than the others, with exceptions depending on particular countries' situations.

3.3.2 Funding

There was also a call for funding mechanisms to accompany the conventions so that the implementation would not be left to an already overworked staff.

3.4 Role of INECE and Information Exchange Generally

INECE was seen as having a key role especially in the following areas:

3.4.1 Central Information Repository

There is a desperate need for a central information repository. With the expanding use of the Internet, all but a handful of countries now have access although this does not necessarily mean that all enforcement staff have access. Legislation was mentioned several times as a key part of the data base. INECE is seen as the logical, in fact the only, locus for this information to reside. This means that INECE will have to be equipped to have a sophisticated electronic data management capability that is very user-friendly. It also means that this staff will have to be experienced in enforcement, not just information managers.

3.4.2 International and Regional Meetings

The meetings, including the five international conferences and the regional network meetings that are planned are viewed as vital. In particular, the regional meeting are critical to the cooperation effort as it is more likely that mid-level managers with first hand experience will be able to attend them. A concern was raised concerning who gets invited to the meetings and what the decision process is. One country was unaware that their country had been

represented at a regional meeting because an official from a particular city government had received the invitation. There was general agreement that this issue was up to each country to manage internally and that all countries should keep in mind the need for continuity and experience in selecting representatives.

3.4.3 Training and Capacity Building

One of the major substantive areas that virtually every country was interested in was training and capacity building. It was felt that INECE has been doing a good job in this area and that this activity should continue and expand.

3.4.4 Communications among Regions

Finally, INECE was seen as the focal point for communication among the regional networks.

3.5 Key Substantive Issues Noted for Cooperation

Following is a listing of those areas that the participants saw as the most in need of international cooperation, based on roundtable discussions:

- Critical geographic areas that are experiencing problems such as Lake Aral or the Mekong River. Watersheds were most frequently mentioned.
- Information on the activities of multinational corporations that are operating, and causing problems in, more than one country.
- Cooperative efforts in dealing with oil spills in international waters or in ports used by ships of many countries as well as exchange of information on the movement of ships that may pose a particular threat.
- Ecosystem-based efforts designed to protect important large or small ecosystems. The oil and mining activities affecting the Amazon Basin were mentioned as were the pollution problems on the Rhine and the Maas Rivers.
- Inland and ocean fisheries management and enforcement.
- Perhaps the most frequently raised issue, not surprisingly, was the shipment of hazardous waste across borders. This was seen as an area where individual contacts among field personnel could be especially useful. In addition, there was a desire for an improvement in the technology available to all countries to track such shipments.
- Port activities and cooperation on international shipping regard to bilge water discharges and hazardous waste shipments.

4 CONCLUSION

There was a great deal of enthusiasm, virtually unanimous, expressed for the concept of increased international compliance and enforcement cooperation. The primary purpose and major goal of the discussions was how to actually make international compliance and enforcement cooperation happen in practice. A general agreement was reached that the major objective should be the exchange of information which can be made available at all levels, and especially at the working level, to improve front-line performance.

Systems which facilitate establishing personal contacts and channels of communications were viewed as critical. Both formal and informal cooperation methods were discussed. The regional networks which were discussed at the conference were seen as a key next step.

There was a long list of specific environmental problems that could benefit from increased cooperation as well as some examples of where cooperation is currently working, although the latter were mostly bilateral. There was general support for the concept of INECE as an umbrella organization which would attempt to pull the regional networks along and serve as a central information repository and communications resource on a wide range of issues. INECE was seen as a repository of information which, given the increasing electronic capabilities in many countries, could be made broadly available.

At the same time there was a note of reality in the discussions of resources, political and staff changes and the relatively low rank, in many countries, of the environment ministry. International Conventions and Treaties were viewed as valuable but there was much opinion that they were unknown to or ignored by, in many instances, the very people who should have a role in implementing them. As a general conclusion, the participants felt that international cooperation is essential and must be accomplished, whatever the obstacles may be, if the global nature of many of our environmental problems is to be successfully addressed. The issue of bilateral and subregional cooperation was raised several times as it was seen as easier to accomplish and less expensive to implement. Specific problems which would particularly benefit from multi-national cooperation were discussed. The role of countries whose own cooperative structures were more advanced was noted. The thinking in general was that they could be excellent models for newer cooperative groupings and could serve as sources of information and provide other kinds of support.