

SUMMARY OF THEME #2 PANEL DISCUSSION: COMMUNICATIONS, PUBLIC ROLE AND COMPLIANCE MONITORING

Moderator: Adegoke Adegoroye
Rapporteur: Michael Penders

1 INTRODUCTION

This plenary session addressed three interrelated topics: the importance of communication and enforcement, the fundamental importance of the public role in all aspects of an environmental compliance and enforcement program and the central role of compliance monitoring in particular, the presentations demonstrated how all three areas can be creatively addressed to be reinforcing. The participants in the panel included government officials from Nigeria, Indonesia, Vietnam and the United States as well as a prominent NGO representative. U.S. EPA Assistant Administrator Steve Herman introduced the morning's plenary with observations about the need to accurately assess compliance status and then use that information to deter future violations.

From their various perspectives, all participants in the panel stressed the central value of the public right to know and the need to communicate effectively about violations and the results of cases. The fundamental importance of the public role in all aspects of an environmental compliance and enforcement program environmental information is a means of encouraging compliance, and more broadly, to protect the environment itself by assuring that citizens have adequate information about threats to the environment and public health so they may shape their nation's policies, practices, and influence corporate behavior accordingly. They reviewed recent international developments, including mandates for access to environmental information, and examined the benefits of implementing the right to information by law and in reporting methods which maximize the useful information for citizens and governments concerned with compliance and minimizing or preventing pollution generally. Panelists detailed practical measures, information management regimes, and new technologies which assist in public awareness and the strategic analysis of information relevant to detecting violations and promoting widespread compliance.

2 PRESENTATIONS

The first speaker, Mr. Margana Koesoemadinata of Indonesia, stressed the importance of compliance status as public information and the use of disclosure of information to encourage compliance. He noted that in areas that have weak laws, weak enforcement, and corruption; public disclosure may be the most effective way to promote compliance.

Mr. Koesoemadinata went on to describe the "Proper" program in Indonesia, a country with a population of about 200 million, whereby BAPEDAL (the environmental agency) has implemented a system for the rating of environmental performance of industries and for publicly announcing the ratings. BAPEDAL has developed public ratings and color coding, ranging from gold to black, to denote facilities which meet or exceed environmental standards, those which achieve minimum compliance and discharge standards, and those in the red and black categories which are out of compliance or make no efforts to comply. Since the implementation of this system, BAPEDAL reports that compliance rates have raised 51 per cent each year.

Indonesia recommends that such a system be considered around the world. They have found it to be an excellent example of how public information can be a powerful tool for environmental protection.

Ms. Svitlana Kravchenko, a professor and President of a public interest law firm, "Ecopravo-Lviv" with particular expertise in Ukraine and the newly independent states (NIS), discussed developments stemming from the Aarhus Convention in June of 1998. While this convention, formally entitled "Convention on Access to Environmental Information, Public Participation in Environmental Decision-Making,, and Access to Justice in Environmental Matters", was certainly a positive development and a "victory in public interest law", Ms. Kravchenko made it clear that it was far more important how well this convention was implemented in practice in order to transfer these rights into realities.

Professor Kravchenko noted that after the collapse of the Soviet Union, Ukraine adopted laws, including a constitutional right to a safe environment, in order to overcome the legacy of Chernobyl. Because these are relatively new laws and "public rights", however, and enforcement and the economic as well as cultural climate are lacking, citizens do not assert their rights enough and officials are not receptive. Accordingly, the professor argued for more specific enforcement mechanisms.

She cited the case of a small town where 2000 children suffered from water contamination. Coal mining was responsible for the pollution of ground water and legal action was costly to pursue, and the citizens ultimately lost their courage and interest to follow through and did not believe in the independent court. Recently, however, there was another case where a Judge overruled a Minister's decision allowing a major project without an environmental impact statement. She cited this as an important precedent that citizens' rights are not just on paper.

Professor Kravchenko recommended specific actions, including the following: (1) the need for expertise to prove cases which depends upon resources; (2) make information more widely available; (3) develop environmental legislation with strong enforcement mechanisms and transparency; (4) promote citizens' suits; (5) promote environmental education, especially in the sphere of the rights of citizens; and (6) spread information about successful court cases and precedents.

Mr. Ngoc Sinh Nguyen, Director General of Vietnam's National Environmental Agency, reported on the first large-scale environmental inspection of enterprises in Vietnam, which took place in 1997. He described the steering committee and inspection teams assembled in each city and how they conducted 9,384 inspections. They found that about half of the facilities were in violation of the law; 4,390 enterprises were fined and over one hundred were ordered to halt their activities. It was further noted that of the fined enterprises, 58% were private.

This first large scale inspection process raised awareness about the obligation of all individuals and organizations to protect the environment and fulfill the mandate of the Law on Environmental Protection. This mass inspection helped in making a national assessment of the current environmental compliance situation and has helped policy makers work out feasible and appropriate measures to increase the effectiveness of the environmental protection regime.

The inspections also facilitated close cooperation between different branches of government and the mass media. The investigation helped increase the role and awareness of the environmental inspectors in society. Tens of thousands of people were introduced to the law on Environmental Protection by working with the inspection teams.

The final panel presentation was by Ms. Elaine Stanley, Director of U.S. EPA's Office of Compliance, who discussed the experience of the United States in using compliance monitoring information generally and recent initiatives to enhance public access to environmental compliance data. One category of new approaches relies on increased public accountability through the dissemination of facility specific compliance data to inform the local community and to enable the facility to benchmark its own performance.

The Sector Facility Indexing Project (SFIP) is a leading example of such an approach. This project provides up-to-date environmental compliance information on a facility specific basis, accessible to the public via the Internet at www.epa.gov/oeca/sfi. It currently contains records for over 650 facilities in five industry sectors: petroleum refining; iron and steel production; primary metal refining and smelting; pulp manufacturing; and automobile assembly.

In the past, these records, although public, were very difficult for government users and the public to access because they were spread across many different data bases. Under this project, EPA has integrated this information so it can be reviewed in one place, and can be used to understand the various impacts of an entire facility. Ms. Stanley reported over 46,000 user sessions and 250,000 hits on the Internet in its first year of operation.

Other EPA initiatives provide more general environmental data to the public to help communities discover the existence of regulated entities in their neighborhood, and assist in compliance with environmental laws. For example, in 1998, EPA Administrator Carol Browner announced a new World Wide Web site established for the Center for Environmental Information and Statistics to provide a one-stop source of information about the environment. Among other information, users can access environmental profiles for each state, county, and territory in the United States to get information on air quality, drinking water and surface water quality, and the management of hazardous waste and toxic chemicals in a county.

In closing, Ms. Stanley noted that today's technological advances provide new opportunities for public access to facility compliance and performance data. She concluded that government agencies have the responsibility to determine the most effective way to provide public access, but also the responsibility to ensure equal access and accurate data.

3 CONCLUSION

Thus, today's information technology makes possible a whole new era for the public right to know. Environmental agencies can bring together more information and make it more accessible to a greater number of people than ever before. If laws and international agreements providing for such access are actually implemented and enforced, nations can expect that enhanced access to environmental information will lead to greater compliance with environmental laws and the prevention of pollution in the first place.

