
SUMMARY OF THEME #5 PANEL DISCUSSION: INTERNATIONAL COOPERATION/TRANSBOUNDARY COMPLIANCE AND ENFORCEMENT ISSUES

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1 INTRODUCTION

International cooperation is an essential element of most environmental protection and enforcement programs. This is due to:

- globalization of trade and fairness and sustainability not causing unacceptable environmental and social losses;
- shared environmental resources;
- pollution and waste crossing borders; and
- growth of criminal activities to avoid legislative costs.

The results and needs for international cooperation will be reported.

2 PRESENTATIONS

2.1 Experience of the People's Republic of China with Illegal Transboundary Waste

Mr. Hongjun Zhang provided an overview of the experience of the People's Republic of China in handling several instances they discovered of illegal shipment of hazardous waste from other nations within Asia, from Europe and the United States. Specific cases were described from both the detection and resolution of the cases with international cooperation in removing the illegal wastes from the country. Priority was given by the government to strengthening China's laws addressing legal disposal, treatment and storage of hazardous waste and to train and equip government staff to address the problem. After some very high visibility cases with a strong response to the violators, these instances of illegal shipment have decreased dramatically, but they continue to be vigilant.

2.2 UNEP Support for Enforcement in International Environmental Agreements

Mr. Lal Kurukulasuriya described UNEP's support in helping negotiations of international environmental agreements including Basel, on transboundary movement of hazardous waste, ozone regimes including the Vienna Convention and Montreal Protocol, biodiversity and desertification at the global levels, and at the regional levels a wide range of issues such as the regional seas program and the Convention of Southern African States on promoting the conservation of Wildlife. Now UNEP support is directed at the Convention Secretariats to implement decisions of the Conference of Parties commemorated in these conventions. Another effort on the part of UNEP is to help coordinate the work of the Secretariats to ensure the efforts are cost-effective there has been a fair amount of overlap. In more recent times, there has been a request to UNEP for assistance in helping with regional agreements relating to transboundary issues such as air pollution and management of international water resources. This is an area of focus in years to come. When one talks

of international cooperation among the nations implementing a regime that relates to addressing a particular environmental concern the role that UNEP plays is to galvanize support to the parties and strengthen their capacity to implement these conventions. In the last 10-15 years UNEP has been involved in both areas of support. Mr. Kurukulasuriya provided examples of how UNEP promotes collective action and cooperation under the CITES, Montreal Protocol and Basel conventions to support the member parties to the conventions. In regard to CITES, on a regional basis the Secretariat receives information from various sources on possible shipments of prohibited species and sets in place alerts to customs departments to manage and control the situation. Efforts of the Secretariats have succeeded on a number of occasions. The Basel Convention implementation involves an active role in disseminating information on impending possibilities of illegal shipments of hazardous waste. Information and support are used to mobilize resources to deal with transgressions. In the case of the Montreal Protocol, the Secretariat helps through multilateral fund to help support achievement of cutoff limits on ozone depleting substances. This has resulted in a significant decrease in the use of Ozone depleting substances. International registrars for toxics, IRTPC, Secretariat in Geneva collected a significant body of information on chemicals and other substances traded within the purview of this instrument. Support of implementation of multilateral Agreements involves four strategies: 1) responsiveness to the demands of the states; 2) help support the development of authorities and activities that are country driven; 3) partnership among international organizations; and 4) development of practical, results oriented activities within the absorptive capacity of the countries. The International Network for Environmental Compliance and Enforcement (INECE) process provides a huge reservoir of information, materials, expertise and experience at a global level dealing with implementation of international conventions. We will be discussing tomorrow how we can take this one step further to the national and regional levels.

Mr. Kees Boekel noted that the specific topics of hazardous waste and ozone depleting substances had been discussed at previous conferences. There are many steps in the right direction but at the same time an adequate level of compliance and enforcement has not been achieved worldwide. The question is how the efficiency and effectiveness of enforcement can be improved and in particular how cooperation among relevant official bodies in each of these areas be reinforced to achieve this. Out of the meeting of the G-8 leaders this year came a strong statement on a commitment to develop cooperative efforts to combat environmental crime, specifically ozone depleting substances and transboundary movement of hazardous waste. The statement stressed the importance of formal and informal networks such as INECE, IMPEL and those of the UN. Since illegal affairs are still being discovered in transboundary transport, pilot projects in the European Union in the context of IMPEL were set up to harmonize enforcement of European Environmental Legislation. The Transboundary Projects were set up to learn to cooperate despite differences to achieve a more permanent network. All European Union countries now are participant in the transboundary project carried out with monitoring of selected waste flows, visiting companies and carrying out transport inspections in a coordinated manner. This year a project year a project was carried out between The Netherlands and Germany in the River Rhine, a major transport route connecting Rotterdam with inner Europe. Environmental authorities worked together with police and customs officials. The Basel Secretariat was also involved to link to information on worldwide activity. It represented a considerable strengthening of enforcement efforts with inspections of facilities and transport up and down the length of the Rhine.

In Europe through Impel they have also set up and starting an initiative on CFC's to address ozone depleting substances. Mr. Boekel recommended several areas where increases in cooperation for enforcement of Basel and the Montreal Protocol are necessary

based on these experiences. First, a large number of participants are involved and the efficiency and effectiveness of enforcement needs more structure. Specifically joint enforcement targeting is needed to specific sources. We must embark on these structure projects to learn to know each other and learn by doing within the context of existing mechanisms for cooperation such as within the European Union. Three components are important: a) enforcement strategy, b) cooperation in practice and c) provision of information. In regard to enforcement strategy, each project should have established priorities, targets and desired outcomes. A unified approaches is needed as well including provision for prosecution, return of the waste, and publicity. In regard to cooperation, more joint enforcement is needed to show progress specifically inspection activity. Multi-year workprograms are needed and the focus placed not only on transport but also on disposal. The technical and administrative aspects of working arrangements have to be specified throughout the chain including customs and police. Education and training are needed along with harmonization of inspector protocols. Finally, in regard to information, the Secretariats of Basel and the Montreal Protocols have an important role which could be expanded. From notification to material stream, to processing capacity we need to operate off of this information. To make this happen, INECE needs to put this before the regional INECE networks as well to develop specific enforcement cooperative projects.

2.4 The Role of INTERPOL and Criminal Enforcement to Address Illegal Shipments Under International Environmental Agreements

Mr. Earl Devaney noted that there is now general agreement that without strong laws and consistent fair enforcement that environmental objectives cannot be achieved. It is also clear that international public opinion and most nations have reached a consensus that knowing violations of environmental law are properly viewed and prosecuted as crimes. The G-8 ministers specifically highlighted the role of both enforcement and criminal enforcement in particular to address these crimes. The common basis for these crimes is a deliberate attempt to save money or to make money. INTERPOL has been in existence a very long time. In 1992 it embarked on the mission to address environmental crimes and has held an annual meeting in Lyon to address it among the _____ nations now part of the INTERPOL network. One of the most successful developments is the creation of the Eco-message system to aid in creating secure communications among law enforcement personnel of the various nations. Because of the high degree of cooperation among the law enforcement community internationally, Mexico was able to shut down a sham recycling operation and the U.S. was able to stop a waste broker from illegal movement of hazardous waste exported from Belgium. Because of this system, the U.S. was able to cooperate with the People's Republic of China by communicating through Interpol about illegal shipment of hazardous waste coming from California to the PRC. More important, because of these communications and cooperation we were able to identify a bigger problem and formed regional networks involving federal, state and local environmental and law enforcement officials to thwart additional attempts to illegally export hazardous waste.

Mr. Devaney emphasized that within the U.S. networks are essential for effective criminal enforcement. Even within his own office, he needs to draw upon and unify investigators, prosecutors, forensics specialists and training functions.

3 DISCUSSION

A question was asked of Mr. Kurukulasuriya concerning the Trade and Environment. UNEP's Division in Geneva is working in close collaboration with the Environmental commission of the World Trade organization to bring into focus environment and trade issues. The opposite is also true that they regularly review the impact of multilateral agreements on trade. A question was also asked about whether UNEP is involved in the Multilateral Agreement on investment that is being drafted. Mr. Kurukulasuriya indicated that he was unfamiliar with this agreement but was sure that UNEP would be consulted. A question was asked about the potential loss of sovereignty and how that was addressed within the European context when they cooperated on enforcement, indicating that these concerns have been raised within the Americas in the Amazonian and also the Andean Pact countries. The response by Mr. Boekel indicated that the answer comes from cooperation and not a loss of sovereignty. Once these nations have come to work closely together and help each other reach common goals this is not an issue.

A further question was asked about whether the enforcement projects involving coordinated inspections and have resulted in real enforcement with real consequences including fines or penalties. Mr. Boekel indicated that there has been general agreement in conducting these projects that the violators should be fined given the seriousness and impact of illegal movement of hazardous waste, for example. They reached agreement in advance with public prosecutors to gain their support and cooperation in following through on violators that were detected.

During the discussions, the importance of NGO participation was stressed in regional, national and global networks for enforcement. UNEP will develop more programs to involve NGOs in the near future. Also it was pointed out the new Prior Informed Consent Convention (PIC) will have to develop enforcement mechanisms and strategies.