

## SUMMARY OF WORKSHOP 2A3/A4: ENVIRONMENTAL COMPLIANCE AND ENFORCEMENT INDICATORS: GETTING STARTED

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 José Pablo Gonzlaez, Office of the Attorney General, Costa Rica  
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### GOALS

To introduce the concept of environmental compliance and enforcement (ECE) indicators and discuss basic components of program design and implementation. The participants represented countries at varying stages of economic development as well as sophistication with regards to enforcement and compliance programs. This workshop helped identify how participants from countries that do not have an ECE indicator program or are in the process of establishing one would go about designing an effective ECE program. Participants shared lessons learned and raised new ideas about how to facilitate establishment of an effective ECE indicator program and, in particular, suggested ways for INECE to guide this process.

### 1 INTRODUCTION

The discussion focused on five key questions posed by the facilitators. These were:

1. How can we start developing ECE indicators? What are the benefits of using ECE indicators?
2. What challenges are associated with identifying, designing, and using ECE indicators?
3. What role can INECE play in developing and using ECE indicators?
4. How can we share experiences from INECE pilot projects to assist other countries in initiating projects?
5. What is the role of International Financial Institutions (IFIs) in providing financial assistance for compliance and enforcement programs? More specifically, what role can they play in countries to help them fund the information sharing and data gathering aspects?

Several ideas were suggested by members from a variety of countries ranging from those with a strong enforcement regime to those still in the nascent stages of environmental enforcement.

### 2 DISCUSSION SUMMARY

#### 2.1 Key Points Attributed to Specific Individuals

1. Ms. Maria Di Paola commented that access to lessons learned from other indicator programs and sharing experiences are important for countries just beginning pilot programs. For instance, Brazil and Mexico have been good examples for Argentina to learn from by examining our shared similarities while still paying attention to our differences.

2. Mr. José Pablo Gonzalez highlighted that training, regional trends, and enforcement cooperation are critical to an effective ECE program.

3. Mr. John Chouinard added that it is important to focus on intermediate outcomes and goals and to avoid looking for proof of cause and effect.

4. Mr. Kenneth Markowitz noted that in order to get the full impact of a country's Organisation for Economic Co-operation and Development (OECD) assessment report, we should identify ways to work with OECD to integrate ECE indicators into the country assessment report process. We cannot look at these indicators in a vacuum, but rather we should pay attention to the externalities involved and other pressures. This same idea is true in other contexts such as the Millennium Challenge Corporation country selection process and the World Bank's initiative on country assessments. Both of these are exploring ways to better understand a country's ability to govern effectively. There is a significant role for compliance and enforcement indicators to contribute to the success of these efforts.

5. Ms. Maria Di Paola suggested a potential role for INECE. E-dialogues are a good way to exchange information and share different experiences useful to our pilot programs. If INECE is interested in developing pilot programs, it would be useful to think how the methodology will fit into a country's unique system. It would be interesting to review the same indicator through different perspectives, another mechanism for the promotion of exchange.

## 2.2 Shared Experiences from Existing Programs: Lessons Learned

Based on Costa Rica's experience, Mr. José Pablo Gonzalez discussed the importance of compiling data and resources on indicators and then organizing this data. While Costa Rica has legislation forcing officials to manage indicator data, they do not have an effective means of enforcing it. Mr. Ken Markowitz agreed with Mr. Gonzalez and added that not only is collecting, organizing, and distributing data difficult, but it is also expensive. Therefore, he questioned what the role of international finance institutions would be

in fiscally supporting compliance and enforcement programs. He further questioned what roles they can play in countries to help fund aspects of information gathering. Finally, he inquired as to whether there is a role for INECE to facilitate or assist with this process.

The workshop then discussed the need to monitor and control ECE programs, the role for public participation, and how to evaluate effectiveness of a program. Types of monitoring indicators include input indicators (e.g., resources available) and output indicators (e.g., number of enforcement actions, number of inspections, and number of cases filed). But more significantly, the workshop posed the question of how we can try to understand improvement in environmental quality.

One participant, Mr. John Chouinard from Canada, suggested the need for stronger consequences for non-compliance. This goes hand in hand with making sure an inspector is vigilant in his monitoring. For instance, he suggested that inspectors should have a checklist of major activities that require compliance and then record this data. With recorded data, a business can have a picture of changes in its performance over time, and inspectors can focus their attention on those who they now know do not comply. Basically, the officer in the field needs to know the purpose, reason, and use of the information he gathers. With a data system, or a generated system, inspectors know where to go and what to check for.

The participants then discussed in greater detail input, output, and outcome indicators. Mr. René Drolet commented that we should focus attention on alternative outcomes. Based on his own experience, he found that long-term outcomes can be attractive, but can also be discouraging. He found his staff discouraged when looking at long-term indicators, but when he focused on outcome-based indicators, that translated into small wins and encouraging results. In other words, while final outcome indicators present an attractive goal, it may be premature in most countries to jump toward outcome indicators without

taking performance measurement in steps designed to provide useful information on program activities.

Mr. Fred Kok cautioned that while outcomes are important, it is also important to look at the quality of data versus the quantity. This was supported by Mr. Krysztof Michalak's suggestion that there be good monitoring of the quality data.

The workshop stressed the notion of clarifying outcome indicators and focusing on intermediate outcome indicators. One such approach is the pressure-state-response (PSR) approach. However, the participant from Australia, Ms. Maria Comino, posed the question of whether, when a country has legislation and uses the PSR approach, there is a way to piggyback ECE indicators on this type of legislation. One solution may be to look at it from a cost-effective approach.

In response, Mr. Ken Markowitz suggested looking to the Organisation for Economic Co-operation and Development (OECD) for guidance. OECD has significant expertise with the pressure-state-response model. The process at the OECD is to try to not look at this in a vacuum, but to consider the externalities involved, such as non-point sources of pollution. However, the participant from the OECD, Ms. Myriam Linster, mentioned that the OECD could use better figures and better indicators. Instead, the OECD currently uses other data, similar to what Mr. Markowitz discussed. INECE can help improve OECD indicators. For example, INECE can help figure out what information is needed to show that a project is effective. INECE could also explore voluntary approaches.

Mr. René Drolet noted that behavioral changes provide a good indication of compliance. He is interested in knowing more about which industry sectors would respond best to compliance promotion in achieving high levels of compliance. Start with a baseline and try to link change with a particular compliance response. This gives an indication of where to focus attention – in his case, the farming community. In Canada, Mr. Dave Pascoe was able to

raise awareness about the fisheries act by explaining to the fishing community what constitutes a violation. However, he ran into political problems during the enforcement phase. For enforcement actions in Costa Rica, Mr. José Pablo Gonzalez was asked by the attorney general to monitor impacts and set out guidelines for prosecutors with the goals of achieving better settlements and quality of enforcement.

The participants discussed empirical data showing that there is a small percentage of the regulated community that will comply. There is also another small percentage that will not comply because there are economic disincentives to comply. However, in the middle there is a community where with some compliance assistance or a “kick in the knee” in the form of a notice of violation, they will comply. The challenge is to first determine who fits in which of these categories and then use the bag of tools we have to know what tool to apply to each group. The workshop participants then discussed what they can do with this group and how the collective INECE participants can use indicators to move this gray group into compliance.

The suggestions offered for furthering compliance within this group included several suggestions.

(1) The participants suggested looking at cost effectiveness. This entails calculating the chance that the offense will carry high fines and finding those who would pay millions versus only a few thousand dollars in fines. In addition, it requires determining which offenders take on the perspective that they would rather be fined than go under. In these situations, it is best to try to calculate the fine in the direction of compliance.

(2) The participants suggested it is important to get the sources of emissions and pollution registered. Similarly, these registries must be kept updated to facilitate effective monitoring and tracking mechanisms.

(3) The participants suggested that we pay close attention to small and medium-sized enterprises that may, if better

informed, come into compliance. For example, eighty percent of small and medium-sized firms in the United Kingdom did not know regulations applied to them.

(4) Developing good governance in countries that are just setting up environmental legislation and laws, like Bosnia Herzegovina, can help build the capacity for effective ECE indicators. Bosnia Herzegovina needs a good foundation, which includes good legal institutions, capacity, and budget, a healthy economy, and a privatization process. Perhaps then, in the long-term, they will be able to develop ECE indicators.

Dr. Roberto Rodriguez suggested that there should be regulatory plans based on a baseline for each country and a set of indicators. This would allow each country to extract a common regional approach in accordance with ECEs on an international level. These ECEs would be targeted at helping countries comply with environmental agreements at the local level through standards and permits, in accordance with Multilateral Environmental Agreements (MEAs) and national plans. Drawing from Costa Rica's experience because it is more advanced, a country would look at indicators of performance instead of looking at indicators of impacts, which are hard to measure. Perhaps the Central American Free Trade Agreement (CAFTA) could serve as an opportunity to spread the use of ECE indicators in Central America.

### 3 RECOMMENDATIONS FOR INECE

The final issue raised was how INECE can help. It was noted that it is important for INECE to respond to the needs of the network, while expanding the network.

Mr. José Pablo Gonzalez stressed the importance of training.

Ms. Myriam Linster suggested that in some countries with extensive financial constraints, there must be a minimum amount of resources necessary to begin an indicators and ECE program. Given the financial constraints, the recommendation agreed to by the workshop participants was

to encourage creativity, which takes into account the different outcomes possible from different countries with different issues. Narrowly defined pilot projects (e.g., focusing on one law or part of a law) that lead to valuable information should not be discounted. The INECE methodology could serve as a starting point. INECE's role could be to encourage the involvement of academic institutions and non-governmental organizations (NGOs) to start the process, similar to what is being done in Argentina with the World Bank Institute (WBI) and Fundación Ambiente y Recursos Naturale (FARN).

Participants also discussed the need to provide inspectors and enforcers of environmental regulations with training and a methodology for ensuring good information collection, management, and distribution. Such practices will greatly assist in conducting a pilot project, irrespective of the scale.

The workshop participants recommended that INECE develop a standardized ECE indicator training program, dynamic and interactive in nature. This training could serve a dual function as a mechanism for encouraging partnerships with institutions and as a means of fostering comprehensive indicator development within a country. The INECE website could serve as a clearinghouse for the training and for sharing experiences among participants in the program.

Another role for INECE would be to highlight those who are the champions of in-country projects, have the vision and political capacity, and are leaders. INECE partners can do training and capacity-building, but there still needs to be movement from inside the country as well. Individual champions within an organization are critical and can make a huge difference.

Ms. Maria Di Paola highlighted the significance of the e-dialogue and the INECE website as a way to promote information exchange and the different experiences useful to our pilot programs. Feedback is especially important if used to review the same indicator through different perspectives. If countries continue to try

things and share what has been tried, this can advance the dialogue on ECE indicators as people develop and explore the linkages between ECE indicators and other indicators.

The final recommendation to

INECE was in regard to the need for regional, national, and domestic cooperation as the primary means for INECE to achieve its goals. Without this domestic support system, INECE would be only able to frame an agenda, but not enforce it.