

INTERVENTION STRATEGY

LANKHORST, HESTER KLEIN¹

¹ Head of the Policy and Strategy Department, Ministry of Housing, Spatial Planning and the Environment, VROM Intelligence and Investigation Service, St. Jacobsstraat 135, 3511 BP Utrecht, The Netherlands, hester.kleinlankhorst@minvrom.nl.

SUMMARY

The Intervention Strategy is a method for getting the most effective and efficient mix of instruments for attaining compliance. In this strategy, criminal investigation is not considered as a separate or extra instrument, but as an integrated part of the mix. When gathering this mix of instruments, one has to take into consideration the specific circumstances that apply to the case. This way the purpose of the regulation can be attained at minimum costs.

1 INTRODUCTION

“Think before acting” is the underlying idea of what is referred to by the Dutch Inspectorate of the Ministry of Housing, Spatial Planning and the Environment (the Inspectorate) as the “Intervention Strategy.”¹ This article will first generally review this strategy. Second, two practical examples are addressed, extracted from experience of the VROM Intelligence and Investigation Service, which is part of the Inspectorate.

2 THE INTERVENTION STRATEGY OF THE INSPECTORATE

The Intervention Strategy consists of a systematic approach for attaining maximum compliance. Through this approach, one can obtain the maximum effect in achieving the purpose of government policy with the most limited costs. These costs can be both material and immaterial. The Intervention Strategy is part of the Compliance Strategy, in which the focus is on “doing the right things” (*i.e.*, setting the right priorities). Given these priorities, the Intervention Strategy gives an answer to the question how to do the things right, achieve the purpose of the regulation, and achieve maximum compliance at limited costs.

The objective of the Inspectorate is that relevant addressees follow the policy, rules, and regulations of the Ministry. The safety and sustainability of the Dutch society – and also of other societies that accept Dutch exports (such as waste) - is best protected when compliance is widespread. Consequently, one must attempt to alter the attitude of the potential offender.

The Intervention Strategy focuses on developing the most effective approach to increase compliance, including reaching this goal with limited material and

immaterial costs. How can one get the optimum of interventions? The selection within the instruments of the Inspection, (*i.e.*, enforcement or criminal investigation) depends on the statutory regulation, the nature of the problem, the purposes in mind, and the typification of the addressees. One has to remember that there is not an ideal mix of interventions in all cases, but it is dependent on the different circumstances. Nevertheless, one could define a strategy of a few steps that should lead to this ideal mix.

When the problem is identified, one has to determine the target group. Common specifics need to be determined, such as the number of companies within the sector, the average company size, the financial perspective, and the (non-)existence of an influential association within the sector.

To find out how the target group is composed, one has to analyse the group and find out the motives for non-compliance. This is done in a systematic way, by what is called a T11-test.² This test is a model based on behavioural sciences, consisting of eleven dimensions. Together, these dimensions are decisive for the level of compliance with legislation. The eleven dimensions are formulated with a view to as high a practicability as possible in the fields of policy-making and law enforcement. The dimensions include the knowledge of the rules, economic profit of non-compliance, acceptance of the rules, and chance to get caught. In expert sessions the dimensions are scored. This makes the T11-test an excellent instrument to find out what motives there exist for non-compliance.

With this study one has identified the characteristic behaviour of the sector. We make a difference between the "not-knowing," the "unable," and the "unwilling." Table 1 shows how these groups can be linked to different interventions. Those who are not aware that they are in non-compliance can be helped by informing them about the legislation (on the other hand, a large group of unknowing compliers can be an indication for superfluous regulation). Those who know about the legislation, but do not know how to cope, can be assisted in the process through what is known simply as "compliance assistance." Those who do not want to comply (intentionally breaking the law) are the people we focus on with enforcement actions and criminal investigation.

This is a general approach that can be applied to every target group, but it will have different results every time, because of its varying input. The unique point in the strategy is that it takes all kinds of possible interventions together in one coherent approach, without giving more importance to one or another intervention, and focuses on the result that is to be achieved.

Table 1: The Different Interventions Linked to the Specific Circumstances

	Not knowing	Unable	Unwilling
Inclined to comply	A Informing Pointing out	C Facilitate Pointing out	E Rewarding or “seducing”
Inclined to break	B Informing combined with enforcement	D Facilitate combined with enforcement	F Scaring of by more stringent inspections, controls or sanctions.

3 THE INTERVENTION STRATEGY IN PRACTICE

Since 2007, the VROM Intelligence and Investigation Service, as part of this Inspectorate, has been working with the Intervention Strategy. In general, it is noted that criminal investigation is a very expensive and time-consuming instrument; so applying the Intervention Strategy can be very rewarding. Two examples of how the strategy was applied by the VROM Intelligence and Investigation Service are shown below.

3.1 Example One: Soil Regulation

In 2007, the Inspectorate started with an Intervention Strategy on soil regulation. This regulation was just renewed. It was recognized that the old regulation was diverse, difficult to understand, and easy to ignore. To improve the knowledge of the new soil regulation, the policymakers focused on communication, including the use of workshops (corresponding to phase A and probably B in Table 1).

Too many companies were not able to comply with the old regulations; this was one of the reasons why the policymakers were willing to change the rules (corresponding to phases C and D in Table 1). An aspect of the new regulation is the necessity of having a certificate and a permit for dealing with soil. Thus, in this phase the companies with a certificate are aware of and able to comply with the regulation.

Next, is phases E and F in Table 1. The succeeding step is an “enforcement week” that is held with the whole Inspectorate. In this week, a lot of companies will be visited and evaluated. When an offence of the law is spotted, the inspector will decide whether it is necessary to issue a sanction, do more inspection in the future, or even start a criminal investigation. Additionally, regional teams with administrative inspectors and criminal investigators are active. In these teams, crucial information is shared and it is decided whether the sanction should be administrative or criminal. Only when there are serious environmental offences with a national or international impact a criminal investigation will be started, being the most expensive and most time-consuming instrument.

3.2 Example Two

The Intervention Strategy has also applied to another sector with a structural problem with non-compliance of environmental law, which must not be identified to allow the most effective implementation of the Strategy. Following the initial execution of the Strategy, a large amount of information on a great part of the market was gathered and analyzed. After understanding the ways and motives of non-compliance, the most effective and efficient instruments were chosen. It appeared that the offending companies had to be categorised in section F of Table 1. As a result of the Intervention Strategy, the following actions were set-up:

(1) policymakers needed to strengthen policies and regulations; (2) cooperation with foreign countries needed to be established where inspection and administrative enforcement activities could be implemented; and (3) transporters needed to be asked in writing whether they were aware of the fact that they might be carrying illegal merchandise. Additionally, companies in the sector, among them the companies involved in the illegal trade, will be advised to abandon any legal activity. If non-compliance sustains, companies will lose their permit and/or criminal investigation will be set up.

4 CONCLUSION

Utilization of the Intervention Strategy is an effective and efficient way of implementing the policy of the Minister, resulting in increasing compliance and improving the environment. If one "thinks before acting" the problem of non-compliance will be easier to solve and the purposes of the regulation will be reached at minimum costs. An integrated approach is an essential part of this strategy and no other superior instruments exist.

5 REFERENCES

- ¹ This article is partly based on the base-document of the Intervention strategy of the Inspectorate of the Ministry of Housing, Spatial Planning and the Environment.
- ² More information about this instrument can be found using the following web link: http://www.sam.gov.lv/images/modules/items/PDF/item_618_NL_The_table_of_Eleven.pdf.

Excerpt from the Proceedings of the International Network for Environmental Compliance and Enforcement's (INECE) Eighth International Conference, Linking Concepts to Actions: Successful Strategies for Environmental Compliance and Enforcement, held 5-11 April 2008, in Cape Town, South Africa.

Reproduction of this document in whole or in part and in any form for educational or non-profit purposes may be made without special permission from the INECE Secretariat, provided acknowledgement of the source is included.

The INECE Secretariat would appreciate receiving copies of any materials that use this publication as a source.

Opinions expressed are those of the authors and do not represent the views of their governments or organizations, the INECE Secretariat, or Cameron May.

Please access <http://www.inece.org/conference/8/> for the full Proceedings.

INECE Secretariat
2300 Wisconsin Ave, NW Suite 300B
Washington, DC 20007
inece@inece.org
<http://www.inece.org>