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TASK FORCE ON ENVIRONMENTAL COMPLIANCE AND ENFORCEMENT

Report by the Chairman of the Task Force
prepared with the assistance of the secretariat

Introduction

1. The first meeting of the Task Force on Environmental Compliance and Enforcement took place in Geneva, Switzerland, on 22 June 2001.
2. The Task Force was established, with the Netherlands as lead country, by the Committee on Environmental Policy at its seventh session in September 2000 (ECE/CEP/74). It was mandated to develop guidelines on environmental compliance in readiness for the fifth Ministerial Conference "Environment for Europe" in Kiev, in 2003, and to report progress to the Committee at its eighth session in 2001.
3. The meeting was attended by experts from Andorra, Armenia, Belgium, Canada, Czech Republic, Denmark, Georgia, Germany, Greece, Hungary, Italy, Kazakhstan, Netherlands, Norway, Poland, Republic of Moldova, Romania, Russian Federation, Sweden, United Kingdom, United States and Yugoslavia, as well as representatives from the United Nations Environment Programme (UNEP), the Regional Environmental Center for Central and Eastern Europe and Ecoforum-Europe. The meeting was chaired by Mr. H.von Meijenfeldt (Netherlands).
4. Members of the Task Force were provided with two documents in advance of the meeting: a note prepared by the secretariat highlighting elements for discussion; and an information document entitled "Observations on definitions and use of the key terms compliance, implementation and enforcement".

5. The Chairman invited introductions from participants and provided them with background information on the establishment of the Task Force.
6. The Task Force considered the purpose and scope of the guidelines with particular focus on the ways in which guidelines could add maximum value for the region.
7. The need to avoid duplication or overlap with other initiatives on promoting and strengthening compliance and enforcement was stressed by several participants. Consequently, it was considered very important to build on already accomplished work, such as the UNEP draft guidelines on compliance and enforcement, the EU minimum inspection criteria and work undertaken under the ECE conventions and other multilateral environmental agreements. Mr. Donald Kaniaru, Director of the UNEP Division of Environmental Policy Implementation, provided an overview of the work being done on the UNEP draft guidelines on options for enhancing compliance with multilateral environmental agreements (MEAs) and draft guidelines for effective national environmental enforcement, international cooperation, and coordination in combating violations of multilateral environmental agreements.
8. To add value, it was agreed that the guidelines would best serve as a tool for information and awareness-raising by providing insight in, and understanding of, the developments and experiences relating to compliance and enforcement in the ECE region and the five ECE environmental conventions. The guidelines would thus identify what had been achieved, and by which means, as well as present procedures and methods which might be used to facilitate and improve compliance and enforcement. With this approach, the development and design of future ECE conventions could also benefit from the guidelines.
9. The Task Force agreed to focus, in the first instance, on the experiences and developments under the five ECE environmental conventions. In this context it was noted that the particular subject matter of an instrument might have implications for the tools used to address the issues of compliance and enforcement.
10. The Task Force discussed the definitions of the concepts of “compliance”, “enforcement” and “implementation”, taking the information document on these issues as a starting point. The discussion focused on the definitions used in the most recent version of the UNEP draft guidelines. While it was acknowledged that these were still draft guidelines, the Task Force agreed to use, as working definitions, the definitions from the UNEP document. It was recognized that, as the work of the Task Force progressed, these working definitions might be revisited.

Conclusions

11. The Task Force decided that:
 - (a) To add maximum value, the guidelines should focus on the experiences and the developments under the five ECE environmental conventions and distil from them the relevant cross-cutting (horizontal) issues and approaches. At the same time, it was recognized that the design of each of these instruments was tailor-made;

(b) To aid deliberations on compliance, it should aim to bring experiences together, thus building a kind of toolbox, as well as providing an assessment and explanation as to which tools might work best in given situations;

(c) It would be best to use the definitions of the terms “compliance”, “enforcement” and “implementation” as used in the UNEP draft guidelines on compliance and enforcement;

(d) The guidelines would not be descriptive or prescriptive;

(e) The issues of compliance and enforcement addressed different audiences and therefore should be treated separately;

(f) An overview (map) should be made of ongoing work on compliance issues under each of the five ECE conventions and their protocols, including the mechanisms and institutional structures established, together with a gap analysis. This should serve as a basis for further work. The overview would be prepared by the secretariat and circulated to the members of the Task Force prior to its second meeting;

(g) With regard to enforcement, in order to add the most value in the ECE context, the guidelines on enforcement should focus on the enforcement of those domestic laws and regulations implementing obligations under ECE conventions rather than being generic;

(h) Members of the Task Force would ask their national authorities what kind of guidance they needed for the enforcement of implementing regulations related to their obligations under ECE conventions. Prior to the next meeting of the Task Force they would provide the secretariat with answers to the following questions:

- (i) Would Parties prefer the Task Force to develop a toolkit for implementing specific conventions, or a compendium of best practices that some countries used to enforce implementing regulations of ECE conventions? Which countries and which conventions should be addressed?
- (ii) Would countries prefer a “toolbox” for national authorities responsible for translating the ECE obligations into domestic laws and regulations or for local enforcement authorities?
- (iii) Were there any specific problems related to the implementation and enforcement of the ECE conventions’ obligations?

(i) The secretariat would send the members of the Task Force a list of international documents on compliance and enforcement;

(j) Its second meeting would take place in Geneva in November 2001.