

The role of European environmental regulatory networks within the EU

Simon Bingham puts forward the advantages of belonging to a network.

As both a regulator and a member of the Board of a European network of regulators you might expect me to view the role of such a network in a positive way, and indeed, I can find very few negatives to try to make a balanced argument. In my opinion European environmental regulatory networks have a very positive role to play in the implementation and enforcement of environmental regulation.

A key aspect of the network's role is the common implementation of European environmental regulation at both an operational and a strategic level. This role has four key pillars:

- to ensure a level playing field;
- to raise standards;
- to generate common tools; and
- to support developing organisations and accession or potential candidate states.

Together these serve to enhance the protection afforded to the environment.

SHARING RESOURCES

Without formal networking there is limited opportunity to look at best practice and share experience between regulators, senior managers and policy-makers in the disparate member states. Pooling the limited resources available maximises effectiveness and inspires members to different approaches and new ideas.

Since the recent financial crisis started in 2008, it has become even more important to increase efficiency and effectiveness in regulation while maintaining compliance with European legislation and, ideally, going beyond this to improve environmental quality. Many regulators have been financially squeezed (along with the industry they regulate) and there is considerable pressure to reduce regulatory burden to support economic growth. Accession or potential candidate countries may find they have considerable improvements to make to meet European Directives, and the implementation of new legislation can require innovative approaches or the establishment of existing practices that are commonplace elsewhere in Europe.

Important strategic environmental networks within Europe include the Network of Heads of European Conservation Agencies, the European Network of the Heads of Environmental Protection Agencies, and the European Union Water and Marine Directors. These networks are made up of senior management and have been developed to facilitate high-level dialogue on critical issues surrounding the implementation of environmental policy. The benefits of being able to pick up a phone and contact a colleague at any level of another organisation cannot be overstated.

IMPEL

The largest regulatory network within Europe is the European Union Network for the Implementation and

Enforcement of Environmental Law (IMPEL). At the time of writing IMPEL consists of 47 members from 33 countries, including three members from the UK: the Scottish Environment Protection Agency (SEPA), the Environment Agency of England (EA) and the Northern Ireland Environment Agency (NIEA). The 33 countries comprise all EU Member States, Iceland, the Former Yugoslav Republic of Macedonia, Norway, Switzerland and Turkey. IMPEL was initially formed in 1992 as an informal network, and later became an international non-profit association in 2008. In contrast to the more strategic networks, IMPEL primarily caters for the operational level, made up of active regulators and technical contributors.

IMPEL is based in Brussels and is run by a Board and full-time secretariat. Most of IMPEL's work is done through projects that are identified and delivered by its members. There are two informal technical forums known as 'clusters', one of which deals with improving implementation of EU environmental law (permitting, inspection, enforcement and smarter regulation) known as 'cluster improving implementation'; the other deals with improving the enforcement of the EU Regulation on trans-frontier shipment of waste. Project ideas are taken to these clusters for discussion, and on-going projects are reviewed. Project reports are approved and disseminated via the General Assembly, which meets twice yearly. Projects receive funding from a combination of membership fees and LIFE+ funding (a European Union financial instrument that supports environmental and nature conservation projects).

As co-chair of the cluster on improving implementation, I sit on IMPEL's Board and take part in the management of the association and the implementation of the decisions of the General Assembly. However, as SEPA's Development Unit Manager, my real interest lies in the projects. High-quality projects share good practice, build capacity and deal with thorny issues of implementation.

CLUSTER IMPROVING IMPLEMENTATION

This cluster currently has several projects dealing with areas of implementation of new legislation. Many of these projects have the new Industrial Emissions Directive at their core. Current subject areas include:

- how to deal with substantial change at a permitted facility;
- how to carry out environmental inspections of

- industrial installations in accordance with the Directive; and
- the development of a common risk-assessment methodology.

Although all of these topic areas could be developed in isolation by each of the member organisations, a shared understanding will help to deliver a level playing field when it comes to implementation at a substantially reduced cost.

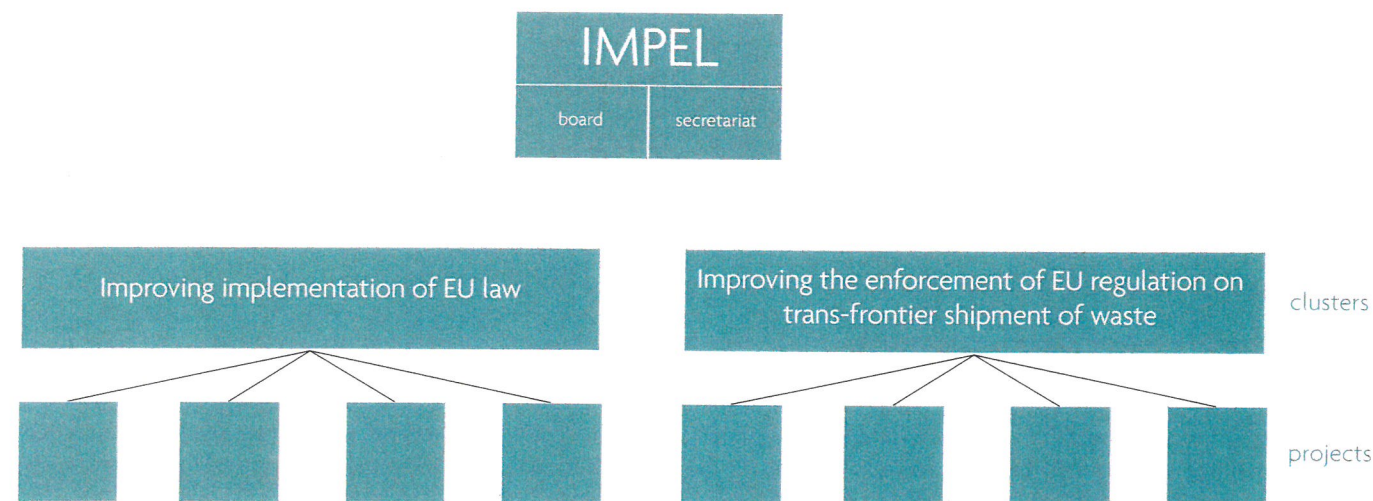
IMPEL works closely with the Commission, and through this has developed project areas where poor levels of implementation of existing legislation have been identified. Currently there are projects looking at eliminating illegal killing, trapping and trade of birds, and aspects of the Water Framework Directive covering diffuse pollution. Sharing ideas on regulation where poor implementation exists does lead to beneficial outcomes for the environment.

In a network of environmental scientists and engineers you would expect to find projects on technical subjects, and you would not be disappointed in this assumption. IMPEL currently has projects looking at the inspection of landfills and energy efficiency in permitting, for instance. It is perhaps projects on technical areas such as these where environmental benefits can be most easily realised through, for example, the reduction in methane released from landfills.

Projects looking at better or smarter regulation have always had an important emphasis within IMPEL, and with the current economic climate opportunities to develop smarter forms of implementation that both lessen the burden on the regulated and regulator are important. Some of IMPEL's most important projects of the last few years have explored how regulators can have assurance in a site's level of compliance between inspections. Projects have included:

- work on complementary approaches to inspection and when to use them;
- research into the level of confidence given by an operator's compliance management systems; and
- the use of supply chains to reduce environmental impact.

These project areas would be difficult to develop as an isolated authority.



▲ IMPEL organisational chart

REVIEWING ENVIRONMENTAL AUTHORITIES

One of IMPEL's most important programme of projects is the review of environmental authorities in IMPEL member states, so as to identify opportunities for development and areas of good practice. This project is known as an IMPEL Review Initiative (IRI) and was developed to help implement the European Parliament and Council Recommendation (2001/331/EC) providing for minimum criteria for environmental inspections. A team from other member organisations reviews the practices, procedures and systems of the host authority. These reviewers bring together a wealth of experience from a diverse range of authorities in terms of size, tradition and geo-politics. Importantly, this is not an audit: the focus is not on minutiae but on whether the systems and procedures are in place and, importantly, whether they are fit for purpose.

Having been on the receiving end of a review I can confirm that the level of scrutiny you face by opening your doors to a group of knowledgeable experts from a similar background is high. Viewing my agency with external eyes has been extremely important to me in my current role and has led me to be an evangelist in respect of this particular project. I have taken part in the review of six environmental authorities since SEPA's review in 2007, identifying areas of good practice that could be adopted in my own agency and potentially shared with the wider IMPEL community. It is easy to become complacent and assume that regulations are never implemented to the same degree in other countries and that you can't learn anything from your neighbours; this assumption is clearly wrong.

One area in which the UK could learn lessons from its European counterparts would be in embracing of new technology, especially when it comes to obtaining information from operators or supplying information to the public. Recent examples of good practice have come from Italy and Iceland. The Lombardy region of Italy has the ability to check industrial emissions from its incinerators remotely, allowing observation at any time. The Icelandic environment agency's website provides electronic copies of permits, inspection results, monitoring data, a summary of the permit and what the site does, for each of the sites that they regulate and all in non-technical language.

At the time of writing, 19 authorities from 19 states have been reviewed as part of the IMPEL review initiative process. At each review a similar number of opportunities for development are usually identified. In every review in which I have taken part, the basic regulatory framework to carry out permitting and inspection activities has always been in place. As a regulator I am keen that we do not 'gold plate' the regulatory requirements that we pass on to operators in Scotland, and conversely that regulators in other parts of Europe are applying European legislation consistently.

From the benchmarking opportunities these projects have afforded me, I have a high degree of confidence that, although there are opportunities for development, legislation is being broadly implemented to similar standards. Many of the regulatory organisations of 'newer' member states appear to be advancing faster than those in more established states. As part of a

network, 'newer' member states are able to benefit from the sharing of established learning and use emerging technology to bridge, or jump ahead of, any gap.

CLUSTER ON TRANS-FRONTIER SHIPMENT OF WASTE

This cluster is also very active. Projects are targeted at different points of the process (such as the waste sites projects that target the source of waste streams or the joint inspections projects targeting illegal shipment) and work with prosecutors for better enforcement of legislation against illegal activities. The cluster has also developed waste-specific projects on topics such as end-of-life vehicles. As environmental problems are global, there is often a need to look further afield: this cluster also looks at the illegal movement of waste to Africa and Asia, and has developed collaboration projects with countries in these regions. It would be very difficult for individual member organisation to carry out such projects, and the effectiveness would be lessened. Many IMPEL members also work with the International Network for Environmental Compliance and Enforcement (INECE) to build legal capacity in developing countries.

Being in a network brings opportunities that are not so readily accessible to an individual environmental authority. This may include access to officials in the Commission, from desk officers dealing with the development of individual regulations to directors overseeing the development of large swathes of environmental law. The network therefore has the opportunity to influence the development and recast of legislation to ensure its practicability and enforceability.

NETWORK NEGATIVES

So, what are the negative aspects of being in a network? Developing consensus can be difficult at times, but as we are not a political entity or lobbying organisation disagreements are rare because we are all there with a common aim. There is obviously a cost to pay in terms of time away from the desk, travel and of course the emission of carbon in travelling to distant meetings. Personally, I think these are easily outweighed by the benefits described above, through the generation of new ideas or ways of working for my own authority. Hopefully the knowledge I have been able to share with other authorities has led to improvements in the implementation of their own regulations. IMPEL has entered into a new phase of development and is now actively trying to evaluate the benefits of its projects. I

am optimistic that soon we will be able to demonstrate exactly how we have made a difference to environmental improvement or financial efficiency.

Regardless of whether you are pro- or anti-European Union, the ability to share experiences with other regulators facing common problems is very important. The pooling of resources and experience facilitates the development of consistent approaches, capacity building, benchmarking and common implementation. Regulators' networks, in my experience, are definitely an example of the whole being greater than the sum of its parts. **ES**

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