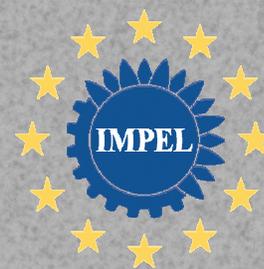


Solving environmental conflicts by dialogue



European Union Network for
the Implementation and Enforcement
of Environmental Law

The project

30 representatives of 17 IMPEL member states participated in the project »Informal resolution of environmental conflicts by neighbourhood dialogue«. Two conferences were held in November 2004 and May/June 2005 in Hannover, Germany.

The focus of the project was on existing sites with neighbourhood complaints where a dialogue process was used as a voluntary instrument to try and resolve the conflict.



Welcoming neighbours to a dialogue meeting and site visit at Honeywell Specialty Chemicals Seelze GmbH.

Neighbourhood complaints and conflicts often occur near sites such as industrial production facilities, waste management sites and quarries because of their emissions or potential dangers including health risks. Sites built near inhabited areas or that have become surrounded by residential areas are especially affected. Conflicts can focus on concerns about odours, noise, air pollution, accidents, operation disorders or new permit conditions and procedures.

The participants in the project discussed several case studies and exchanged their experiences of using various dialogue approaches. The discussions covered application fields, essential framework conditions, chances, best-practice proceedings, advantages, risks, limits and involvement of authorities. The following paragraphs



Neighbours of Volkswagen Nutzfahrzeuge visit the new paint-spray line, having accompanied its planning.

summarise the important aspects and recommendations about how to implement the use of dialogue processes successfully.

Foreword

Ladies and Gentlemen,



I am pleased to present to you the recommendations of the IMPEL network neighbourhood dialogues project. This project titled »Informal resolution of environmental conflicts by

neighbourhood dialogue« involved participants from 17 European countries. It achieved an exchange of dialogue experiences between member states.

The project was led and co-ordinated by the Hannover Department of Labour and Environmental Inspection (Staatliches Gewerbeaufsichtamt) due to our experience of using dialogue to resolve conflicts within the federal state of Lower Saxony in Germany. Since the mid-nineties we have been using open dialogue processes to the benefit of all parties involved in

environmental issues. Dialogue means that environmental conflicts can be solved in a constructive way or avoided from the start. It allows the interests of all parties to be expressed and considered early on when making decisions and planning for future investment. It also allows us to increase understanding of legal requirements. Dialogue creates the benefits of co-operation between participants to achieve reasonable solutions that can also achieve additional environmental improvements beyond the requirements of the law. It also reduces the burden on the regulatory authorities by reducing complaints and legal proceedings against their decisions.

The project built on our work and understanding by discussing and evaluating case studies from the 17 member states. This showed us that we are all facing the same challenges. The challenge to deliver the requirements of environmental legislation whilst achieving good relations with the businesses we regulate

and the neighbourhoods they affect. To achieve this different countries have used dialogue in a variety of ways. The project concluded unanimously that it is worthwhile to look at how we can be more effective and widespread in our use of dialogue processes.

The project report and website www.gewerbeaufsicht.niedersachsen.de (IMPEL Project) provide more detail on why dialogue works and how it can help us to achieve the implementation and enforcement of environmental law.

I would like to thank all the participants in the project, and I wish all those who are interested in dialogue an exciting read and a successful future using dialogue to resolve environmental conflicts.

Hans-Heinrich Sander
Minister for Environment
of Lower Saxony

The main results

Legislation sets the framework but also the possibilities for discretion and for dialogue. Before initiating a dialogue process the chances and risks should be assessed (see sections 5 and 6).

Dialogues support conflict resolution between companies and neighbours. They have proven to handle and solve certain neighbourhood conflicts more effectively and efficiently than a traditional approach of enforcing regulations. It gives authorities a systematic and structured approach to manage communication and conflict resolution between neighbours and sites.

Dialogues cannot replace the usual

tasks and responsibilities of inspection authorities nor do they substitute the law, but they can complement them. If there is a need for immediate action (e.g. to prevent significant health and environmental risks) or if an important party is refusing to participate in or misusing the dialogue process (e.g. to gain time) a different approach will be needed. This is when the authority must use their traditional instruments to regulate the site (e.g. supervising measures, legal constraints or judicial measures).

Dialogues can create win-win situations, e. g. by avoiding the need for a judicial decision where the legal position is unclear.

Dialogues and their results have to comply with the law.

Dialogues allow discretion to be used to agree on research projects or to develop and implement new standards to get more improvement than can be required by legislation.

In particular cases and depending on the national regulatory systems dialogue results can also be integrated into the permit or fixed on a voluntary basis by private or public-private contracts to ensure their binding character. If all parties agree on a compromise, this may reduce time, costs and risks for all.

1. How dialogues solve neighbourhood conflicts

Dialogues can improve environmental performance, reducing nuisance and health impacts to acceptable levels for the neighbourhood by voluntary efforts and communication.

Dialogues allow for direct communication between all parties involved in a conflict. Facilitation and mediation techniques support the parties working together, agreeing on facts and understanding complex conflict issues. Dialogue partners learn to accept other participants' views and constraints and to take responsibility for handling and solving the conflicts. In the long run dialogues encourage understanding, build confidence, create trust and contribute to solving even hardened conflicts.

Dialogues support additional access to information and participation of the public in environmental issues. It therefore promotes the aims of the Aarhus convention. This includes the requirements for access to information, public participation in decision-making and access to justice in environmental matters.

The Aarhus convention was adopted at the 4th UNECE Conference in 1998 in Aarhus, Denmark, and came into force on 30th October 2001. By the end of 2005 the Aarhus convention had been ratified by 37 states and the European Community.

2. Which type of dialogue approach is suitable?

Various types of dialogue processes exist. They can differ in the initiator (e.g. company, authority, courts), the facilitator (representative of the initiator or independent), the method or by their objectives. Goals may range from exchanging and gathering information, complementing expert research, discussing future plans and alternative options, to getting the

company's feedback on neighbourhood recommendations or even negotiating compromises and mediating solutions that are acceptable to all parties.

»Dialogues« and »Round Tables« (based on facilitation), »Mediation« or »Mediation by expert consultation« characterise different approaches. The design should always be case specific.

Neighbourhood dialogue or mediation approaches can also be useful preventive instruments. Even if the focus of the project was on conflict resolution, the participants saw great potential for dialogue processes to be integrated in legally prescribed instruments of information, communication or participation e.g. to accompany permit procedures.

3. Key factors for success and best-practices of dialogue

Before starting a dialogue the initiator or the facilitator should assess preconditions and key factors for success.

Essential preconditions to a dialogue are:

- the willingness to negotiate about how to improve environmental quality
- the willingness to cooperate and get involved by all dialogue partners
- personnel and financial resources e.g. for facilitation, expertise



Honeywell invested in the cover for the settling basin of the water treatment plant to reduce odour emissions.



Neighbour asking questions about environmental and health risks.

Neighbourhood Dialogues in Germany

The Department of Labour and Environmental Inspection in Hannover is responsible for several sites, where neighbours complained about different environmental nuisances. The residents used administrative and judicial rights to pursue their interests and sued the companies and the inspection authority. Within these formal procedures many conflict aspects and underlying interests could not be dealt with. The conflicts were never solved and became never ending stories.

In 1995 Honeywell Specialty Chemicals Seelze initiated the first neighbourhood dialogue in the region. The company now invites its neighbours to discuss environmental and other issues important to them three times a year. An external facilitator prepares and leads the discussion. Nowadays the company and its neighbours handle most of the complaints directly. Some of them are done in combination with modernisation investments, e.g. investments in odour reducing measures were taken voluntarily. No intervention by the authority was necessary. Complaints to the authority decreased nearly totally.

Today a number of companies in the region of Hannover have successfully installed neighbourhood dialogues and by doing this they have improved their environmental performance and neighbourhood relations.

Dialogue facilitation at Trecatti Landfill Site, UK

The Environment Agency of England and Wales received up to 100 complaints a day about odour nuisance from a landfill site. The traditional approach since 1996 was monitoring the site, using scientific data and risk based analyses, seeking to ensure the site achieved best-practice and then communicating this to the local residents through community representatives and in response to complaints. This approach neither solved the odour problems nor the conflict.

From July 2002 to November 2003 a dialogue process involved up to 150 people in six main group meetings. A working group of 13 people representing all of the interests developed solutions for the issues during 20 sessions. Outcomes were: improved awareness of the facts and constraints; majority agreement and acceptance of the site; active site monitoring on air quality, groundwater flows, flies, health impacts and complaints received. The latter reduced the complaints and the request for a Public Inquiry (legal review process). Relationships and communication were improved – a Site Liaison group was formed to continue the dialogue and it is still running today.



Trecatti Landfill Site Liaison Group before a site visit.

Key factors for success and best-practice proceedings are:

- Involve and talk to all relevant parties (operator, residents, local interest groups, politicians, police, fire department, inspection and other authorities) to check and analyse their interests, expectations, willingness to cooperate and constraints.
- Evaluate this feedback and the communicated options for activities to check time horizons and realistic expectations about possible outcomes.
- Propose a dialogue process design to help the groups work together on the conflict issues. Check if further expertise is necessary. Develop common dialogue goals and fairness principles. Let these be

accepted as common ground rules so that the dialogue partnership is binding for all participants.

- Be clear and open on facts, uncertainties, responsibilities, constraints and alternatives.
- Be transparent about proceedings and involve the public and the media through public meetings and continuous information.
- Encourage and support agreement on facts, mutual learning and taking self-responsibility for conflict resolution where appropriate.
- Let hardened conflicts or very contentious issues be facilitated or mediated by a neutral third person.
- Make sure that results are implemented with respect to the law and ensure or improve environmental performance.

4. Role of the authority: initiator, facilitator or participant within dialogues

Inspection authorities generally take the lead for initiating dialogue between an

operator and residents with complaints. Inspection authorities representatives often act as a facilitator to encourage direct communication, to mediate between companies and complainants, to initiate partnerships or to act as a participant in a dialogue process. In all cases, authorities play an important role within dialogue processes. They contribute to achieving high quality of dialogues and their outcomes e.g. by assessing expert views, giving legal information to all parties and ensuring that legal and public health needs are met.

Sometimes an authority can be perceived as having its own interests in the result of the dialogue process. This is when an external facilitator or mediator can make sure that the dialogue process happens smoothly and role conflicts are avoided.

Successfully working dialogues will reduce the cost including staff time and reputation for authorities in dealing with complaints and delivering their work. For example, experience has shown that complaints will decrease significantly. Therefore authorities have an interest in initiating dialogue approaches.

Mediation in Drogterslagen, NL

The Environmental Inspectorate initiated a dialogue to check and discuss health risks of an aluminium company with the citizens of Drogterslagen. They involved representatives of the citizens with a committee of experts and the



Neighbours and experts learn about soil research.

formulation of the research proposal. The results were communicated in public meetings. No significant links between cancer occurrence and the company's emissions were found. All parties including the representatives of the citizens accepted the results.

5. Advantages of dialogues

Dialogues can achieve communication and environmental benefits:

Building relationships and trust by information sharing and communication

- Because of the involvement and acceptance of all parties solutions are more robust and more sustainable.
- Participants get additional access to information.
- Companies become more understanding of neighbourhood concerns.
- Sites become more accepted by neighbours.
- Good relationships can be built and trust rises between conflict parties.
- All parties are aware of and deal with complaints and conflicts very early and openly.

Improving environmental performance without judicial pressure

- Environmental performance can increase; e.g. links with scheduled investments or additional discretionary improvement are possible.
- Results can achieve more than is required by the law.
- Dialogues support sustainable management approaches.
- Improvements can be based on voluntary efforts.
- Companies get a positive image because of voluntary improvements without judicial pressure.
- All parties spend less time on complaints and can avoid judicial confrontations.
- Permission procedures can be more efficient for companies and authorities.

6. Assessing uncertainties, risks and limits

There are also risks and limits to the implementation of dialogue processes.

- It is not certain that the conflict will be solved.
- It is not certain if the cost spent in time and money will be worthwhile e.g. they can exceed the costs of the normal way of dealing with complaints.
- The time that a dialogue process takes may be abused by a party e.g. an operator to delay necessary investments in environmental performance technology.
- Parties may refuse to take responsibility for the results.
- In a dialogue process individuals may seek agreements that are personally beneficial. Even if legally acceptable such agreements may impact on other people both involved in the dialogue process and outside of it, or affect environmental quality (e.g. shift of pollution from air emission to wastewater).

The conflict analysis assesses these risks before starting a dialogue. In some cases the initiator or the facilitator will introduce specific ground rules or elements in the dialogue process or not recommend a

dialogue approach to manage the uncertainties, risks and limits. If problems occur during the process the facilitator or the authority can intervene to try and overcome them. If problems cannot be solved then the dialogue process may have to end and traditional regulatory processes used.

7. Further information

Two national projects (UK and Germany) have published toolkits to initiate dialogues. In France dialogue commissions are legally supported for specific sites.

»Enterprises and their neighbours: building confidence to solve conflict. 12 steps towards a good neighbourhood« of the Department of Labour and Environmental Inspection, Hannover, Lower Saxony, Germany. Download: www.gewerbeaufsicht.niedersachsen.de

»Building trust with communities. A toolkit for staff« the six step checklist of the Environment Agency of England and Wales, Bristol, United Kingdom. Email: ruth.rush@environment-agency.gov.uk

French regulation on the Local Committees for Information cover three areas: nuclear energy sites (CLI), waste management sites (CLIS) and industrial risk (Seveso II) sites (CLIC). Download of the CLIC decret »Information et concertation

du public : Les comités locaux d'information et de concertation CLIC«: www.ecologie.gouv.fr/article.php3?id_article=2396



A typical neighbourhood dialogue meeting at Honeywell Specialty Chemicals Seelze GmbH

Final recommendations

The participants in the project recommend support for the further application of dialogue processes as voluntary instruments in the implementation and enforcement of environmental law. In particular they recommend:

- using dialogue as an option within complaint procedures
- using dialogue before or parallel to permit procedures (e.g. in accordance with the IPPC directive)
- encouraging companies to use the dialogue process as part of operating their site.

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