

European Network of Environmental Authorities (ENEA 4) meeting

Brussels, CCAB
27 February 2006

Draft Minutes

1 - Introduction: Welcome / Approval of Minutes of ENEA 3 meeting 12.09.05 / Approval of draft Agenda

Mr. Kremlis welcomed the participants to the ENEA meeting. Most of the Member States and both Accession States were present at the meeting. Representatives from EFTA, REC, EEA, GRDP, WWF, Friends of the Earth Europe and Birdlife also attended.

The Minutes of the previous meeting ENEA 3 on 12.09.05 and the draft agenda for the 27.02.06 meeting were approved without comment.

2 - Brief progress report on negotiations on Regulations for Structural and Cohesion Funds 2007-2013 and Community Strategic Guidelines after agreement on Financial Perspectives at December 2005 European Council

Mr. De Michelis (DG REGIO, Commission) described the calendar of activities foreseen following the agreement of the European Council on the Financial Perspectives in December 2005, the novelties that this agreement has meant introducing into the draft package of Regulations (the draft General Provisions Regulation (GPR), the ERDF, the ESF, the CF and the EGTC Regulations), and the outstanding issues still being discussed in these draft Regulations.

Regarding the calendar, Mr. De Michelis said that in the best-case scenario there would be an inter-institutional agreement on the Financial Perspectives with the Council and EP during April-May 2006 and that agreements on the package of Regulations would follow shortly afterwards.

Regarding the novelties introduced in the GPR these were related to: the earmarking of resources linked to the Lisbon Strategy; financial engineering (the Jaspers, Jeremie and Jessica instruments); the overall financial resources which have been reduced after the December 2005 agreement; and the introduction of an inter-regional strand to the Co-operation Objective in both the GPR and ERDF.

Regarding the outstanding issues in the GPR, Mr. De Michelis stated that discussions were still on-going on: how the Community contribution is calculated (either as a fraction of the public contribution or total contribution including private and other contributions); national reserves; the link between interim payments and audits; proportionality in the case that EC contribution represents a small part of a given OP. In the ERDF the outstanding issues are: the eligibility of non-reimbursable VAT and housing. Finally, in the CF, the outstanding issue is related to macro-economic conditionality.

Finally, Mr. De Michelis mentioned that the Commission had agreed draft Community Strategic Guidelines (CSG) in July 2005, and that shortly after the package of Regulations

were agreed, a new final version would be presented to the Council for formal adoption with the Assent of the EP.

There were questions from ENEA members about: state of discussions with the EP; environmental sustainability as a cross-cutting theme; what the proposed Lisbon earmarking in the Regional Competitiveness Objective means for the environment and the implementation of the investment heavy *acquis*; the role of Environmental Authorities and Environmental Partners; achieving a balance in the allocation of the CF.

Mr. De Michelis, Mr. Hartog and Ms. L. Sanches (DG REGIO) replied to these questions, with some contributions from Mr. Kremlis and Mr. Parker (DG ENV):

- *state of discussions with the EP on the draft Regulations*: these are on-going. The EP will also be involved in commenting on the CSG and strategic documents on the Cohesion Policy produced by the Commission in 2009 and 2012.
- *environmental sustainability as a cross-cutting theme*: there has not been enough support from MSs to introduce a stand-alone article. However, Article 3 on Objectives contains a clear indication that sustainable development is a key objective of the policy. In any case what really matters is whether there is a commitment to horizontal environmental integration in the NSRFs when these are negotiated.
- *what the proposed Lisbon earmarking means for the environment and the implementation of the investment heavy acquis*: the earmarking had been proposed by President Barroso (at the Hampton Court European Council in October 2005) following the conclusions of earlier European Councils in 2005. A *fiche* has been presented to the Council Working Group on Structural Actions (No.59) which reflects the Integrated Guidelines agreed at the June 2005 European Council. This includes renewable energies, energy efficiency, clean public transport and environmental technologies in SMEs, but not other environment protection and risk prevention measures. The earmarking is aimed primarily at the EU15 countries. The new MSs will have to remember their commitments to implement the investment heavy environmental *acquis* under the Accession Treaties when preparing their NSRFs so to avoid future infringements.
- *the role of Environmental Authorities and Environmental Partners*: the proposed Article on partnership has been substantially weakened by the Council compared the Commission's original proposal. Any further changes depend now on the role of the EP.
- *achieving a balance in the allocation of the CF*: the Commission will insist that there is a robust analysis consistent with Community priorities behind the anticipated allocation of the CF for transport and environment.

Mr. Hartog suggested that ENEA in future might like to address more the opportunities of environmental capacity building offered by the ESF.

Mr. Kremlis concluded by thanking Mr. De Michelis and stated that environmental integration in the Cohesion Policy was of key importance to DGs ENV and REGIO. Capacity building using the ESF warranted particular attention in future ENEA meetings.

3 - Presentation of results of ENEA questionnaire sent out in January 2006: current functioning of ENEA; Future role and actions of ENEA; Reexamination of ENEA Mandate

3.1 – General comments

Ms. Izabel presented the results of the questionnaire that had been sent out in mid-January 2006. Replies had been received from ten EU15 countries, six EU10 countries and both Accession countries (BG and RO). This meant that nine countries had not replied, but the response rate was large enough to allow some valid conclusions to be drawn.

Some notable results were: i) on the basis of the replies, a good involvement of EAs and NGOs; ii) the identification of environmental priorities has begun (nature and risk prevention were seen as high priorities and research and training as lower priorities; iii) that the SEA Directive will be applied to OPs (12 positive replies) and in some cases to the NSRFs (5 positive replies). The letter on the application of the SEA Directive to the Cohesion Policy had been sent to MSs on 02.02.06, and most ENEA members had already received a copy.

In the following discussion, MSs stated that the questionnaire had been a useful exercise and a good basis for common work, and they felt that certain questions could be updated on a regular basis (e.g. 3, 6 or 9 months time). In some MSs not all questions could be answered in January-February 2006 as the preparations of the NSRFs and OPs were not that advanced. It was suggested that new questions on environment as a cross-cutting principle and capacity-building should be included in a future questionnaire.

Mr. Kremlis concluded: i) inviting those countries that had not replied, or not yet replied fully, to do so by 24.03.06; ii) that presentations could be made at future ENEA meetings on the responses to a slimmed down version of the questionnaire with a few new questions added.

3.2 - Functioning of ENEA

Ms. Izabel presented the results on the functioning of ENEA: there was a general positive appreciation of the work of ENEA; it was felt that more information could be provided between meetings to exchange good practices (chat, e-mail contacts, newsletter); that there was a preference to keep the informal status with no binding mandate; that there should be no barriers to new members; that the involvement of regional networks needed to be discussed; that improvements could be made to the ENEA webpage on Europa; and that more dialogue was needed on future ENEA activities.

The following discussion indicated that there should be a distinction drawn between “Members” of ENEA who are the representatives of the 27 environmental administrations in the MSs and Accession countries, and “Observers”. Within the latter there would be “Permanent Observers” who would be invited to all ENEA activities/meetings/working groups and “Other Observers” who would be involved as appropriate. The environmental NGOs, REC, EEA, GRDP and EFTA would all fall into the category of “Permanent Observers”. “Other Observers” would include regional networks, such as ENCORE, EPRO and SERN. Mr. Kremlis noted that as ENEA was in any case a network, its character was informal and therefore in practice the difference between Members and Permanent Observers was not that significant. He hoped however that ENEA would develop the character of a “formal informal network” whose recommendations and common positions might be sent to

national Managing Authorities. ENEA could operate at three levels: MS level; EU level; the collective added-value of the network.

There were concerns of asymmetry in roles with the ENEA Members and Observers present in an informal capacity and the Commission speaking with one voice. Mr. Kremlis replied that both DG ENV and DG REGIO were present in an informal capacity to listen and comment on ideas, but on certain issues such as the negotiation of the Regulations a formal position had to be adopted.

In response to a comment, Mr. Kremlis remarked that there should not be any competition between EPRG and ENEA as the focus of the latter was clearly the Cohesion Policy.

Mr. Kremlis thought that as 2006 was an exceptional year with the preparation of the NSRF and OPs, a more intensive meeting schedule (3 rather than 2) was required. The next two meetings of ENEA could be held in Spain and Italy, back to back with their national network meeting. The regional environmental representatives from the Managing Authorities in Spain and Italy would also be present. The normal rhythm from 2007 onwards would be one meeting in Brussels and the other in a MS. There were no objections raised to the proposed meeting schedule and format for 2006. However, it was felt that the creation of a European network bringing together Environmental and Managing Authorities with possibly regional environmental authorities as well on a regular basis was not desirable due to the number of people involved. Such meetings were best done at national level as currently in Italy and Spain.

Mr. Kremlis would like that ENEA would become an umbrella network – the European level network for the national networks. However, he stated that DG ENV did not have the resources to provide a permanent secretariat for ENEA. Was there any ENEA Member or Observer who could volunteer? Could a LIFE+ or an Interreg type project cover the costs? Could TA be set aside in national OPs for ENEA related activities? These issues would need clarification before the next meeting. Some MSs suggested that it should be explored if, in one of the instruments suggested, it was possible to find a centralised financing (on the basis that one central decision would be easier to manage than 27 decentralised decisions); also, the GRDP project, updated and enlarged, could develop its role as a technical service to ENEA. On the Commission side, Ms. Izabel would be the main contact point for ENEA related activities with Mr. Parker as her substitute.

The role of the Working Groups was seen as the key for maintaining the dialogue between ENEA Members and Observers outside the meetings. A clear workprogramme with clear products needed to be defined as soon as possible. It was important to avoid creating a “talking shop” and for ENEA to be seen as credible rather than an environmental lobby (e.g. a presentation on ENEAs activities could be made to CDCR). Dr. Lee (Birdlife) suggested that ENEA should have a “problem-solving” role where issues could be brought up to the EU level from national networks in order to find common solutions. Thematic workshops or conferences could be established on topics such as indicators (on the topic of indicators, Ms. L Sanches (DG REGIO) advised the MSs to follow closely the work of the CDCR sub-group on ex-ante evaluation and indicators).

Regarding maintaining dialogue and information between meetings, Ms. Payne (GRDP) stated in their experience an internet forum does not work well but a simple newsletter has been effective.

In conclusion, Mr. Kremlis stated that we had to make 2006 an effective year in terms of the activities of ENEA. Three meetings would be held in total and Members and the Permanent Observers were invited to propose timely issues for the future agendas. Whilst DG ENV encouraged MSs to establish national environmental networks, this was not an obligation.

4 - Summary of final products of ENEA Working Groups 2004-6

Mr. Kremlis and his collaborators summarised the work of the five Working Groups created at the ENEA meeting in September 2004:

- *Isfe (“bilan”)* i.e. the impact (contribution) of the SFs and CF on the environment in the 2000-6 period. The final report is ready for publication consisting of 115 pages plus annexes, analysis on the basis of financial allocations (environmental investments and environmental integration) in the current period. A short publication and a 15 pages executive summary are being prepared. It will be placed on the ENEA webpage.
- *Water*: the document is now ready for publication. A colour copy was distributed to ENEA at the meeting. It includes an analysis of the challenges and identification of eligible interventions. Ms. Nagel (German expert) wished that the report be as widely distributed as possible both inside and outside the Commission.
- *Environmental Capacity Building*: documents were presented during the September 2005 meeting and are since then on the ENEA website. Ms. McGuinn (REC) hoped that the anthology would continue to be updated to make it a “live document”. Mr. Nychas (DG ENV) thought that the updating issue would have to be dealt with by the members of that Working Group.
- *Strategic Environmental Assessment*: Mr. Aspinwall (DG ENV) explained that the aim of the Group was to contribute to the drafting of the report (required by Article 12(4) of the SEA Directive) on the relationship between the SEA Directive and Regulations 1260/1999/EC and 1257/1999/EC. The Group had met twice. However, because of delays in agreeing the new SF Regulation, it has not yet been possible to finalise the draft report. In addition to the discussions already held with DG REGIO, there had also been discussions with DGs AGRI and FISH on the application of SEA in those fields. Once the Article 12(4) report is ready, DG ENV will circulate it by e-mail to all the ENEA participants (and to the EIA/SEA Experts’ group) for final comments by the end of March 2006.
- *Third Pillar of Cohesion Fund*: produced a document for the February 2005 ENEA meeting which may have been useful for Member States in their internal preparations for the future CF. In the current compromise text, the Third Pillar of the CF does not exist anymore – it is merged with the second pillar on environment.

In conclusion, Mr. Kremlis stated that all five Working Groups had now completed their work, and thanked all those involved in the MSs, ENEA Observers, other Commission DGs,

and DG ENV staff. The outcomes and the papers will have to be promoted: a new web page will be created from the existing ENEA webpage. We have now to think about the public that could be interested by such products and envisage distribution accordingly.

5 - Presentation on Risk Prevention through the Cohesion Policy

Mr. Kremlis introduced this item, remarking that the ENEA questionnaire had shown that risk prevention was seen as a higher priority than climate change.

Ms. Snoeren (DG ENV) made a powerpoint presentation on risk prevention. She underlined that risk prevention is a priority for the ERDF in all three proposed Objectives – Convergence, Regional Competitiveness and Co-operation, as well as being included in the draft CSG – thus presenting significant opportunities. Other proposed ERDF and ESF activities, such as related to ICT and education, were also relevant. Community co-financing needed to be “joined-up” – Cohesion Policy, Rural Development, Solidarity Fund, the Rapid Response and Preparedness Instrument, LIFE+, Framework Research programmes. We had to also build on existing work/activities such as the EuroSION study, the Armonia RTD project, and ESPON.

Ms. Snoeren described the existing Community *acquis* of relevance both related to the natural environment (proposed Flooding and Soil Framework Directives) and technological or procedural aspects (Erika package, Seveso, EIA/SEA, INSPIRE, environmental liability, and some transport directives).

In conclusion, Ms. Snoeren asserted that there was a mosaic of activities but no overall risks policy framework or structure. In the absence of such an overall framework, does the Commission need to now provide guidance to support the implementation of risk prevention within the Cohesion Policy? The contents of such Guidance could cover: prevention, preparedness; overall policy orientations; incorporating risk into the programming cycle. The DG ENV Ideas Paper already provided a useful typology. What did ENEA think of the use of such Guidance?

Ms. Sanches (DG REGIO) thought such an initiative would be very useful as mistakes had been made in the past with infrastructure developments. She cautioned that MSs may be reticent as landuse planning is not an EU competence.

The initial reactions welcomed such an initiative. One Member was concerned about its scope – would earthquakes, toxic risks, radiation and security of energy supply be covered? What would be the scale examined? Could a link be made with EIA/SEA? Two other Members thought that the Commission should be careful about giving guidance as the financial resources in the Cohesion Policy would be rather limited for risk prevention, especially through the Cooperation Objective.

Mr. Kremlis stated that any Guidance would have to be subsidiarity minded and cover all Community co-financing. A new version of the powerpoint presentation would be sent to ENEA members shortly with a request for volunteers for a new Working Group. He concluded that ENEA members probably needed to reflect further and consult colleagues in their MSs. If anyone was against either the establishment of an ENEA Working Group or the proposed Guidance itself, they should inform DG ENV by the end of March.

6 - Open Discussion on preparations for future programmes: partnership arrangements; SEA preparations

6.1 - SEA

Mr. Kremlis opened the discussion by stating the Commission had sent a letter out on the 02.02.06 to the Permanent Representatives about how the SEA Directive will apply to the new OPs. One Member wondered if a similar letter would be sent out for Rural Development and the Fisheries Fund. The Spanish Environmental Authorities are developing a methodology for applying SEA to Rural Development, available at the end of March. Italy has established a national Working Group on applying SEA at national and regional level for its application to OPs. France is preparing national guidance. GRDP distributed the newly printed "Handbook on SEA for Cohesion Policy 2007-2013". Two Members requested guidance on how the SEA Directive would apply to the Cooperation OPs. Mr. Kremlis and Mr. Aspinwall replied on this last point that existing provisions on transboundary impacts in the EIA and SEA Directives applied, and Ms. Izabel added that in the current period most of the Interreg programmes were made subject to an *ex-ante* environmental evaluation. Mr. Aspinwall added that it was not intended to send letters about the application of the SEA Directive to the Rural Development and Fisheries Funds but the logic was the same as for the Cohesion and Structural Funds. If the content of Rural Development and Fisheries Operational Programmes was as anticipated, SEAs of them would be expected.

6.2 Partnership

The UK stated that it would launch a public consultation on 28.02.06 on its draft NSRF, and that the environment is clearly stated as a cross-cutting priority. In Austria, a Handbook on Partnership is being developed. In Italy strong partnership arrangements have been put into place, helped by the application of the SEA Directive. In some Member States, it is hoped that environmental NGOs would be involved. In one case, environmental NGOs are involved, but the environment is not being taken up as an explicit cross-cutting principle. In other Member States, preparations are still on-going.

7 - NGO Progress Report (Stefanie Lang, WWF; Martin Konecny, CEE Bankwatch Network/Friends of the Earth Europe; Rachel Lee, Birdlife International)

The environmental NGOs provided presentations about their activities. Dr. Lee mentioned a forthcoming RSPB/BirdLife conference on how to access SFs for nature conservation in Cardiff, 26-29.03.06, which is being co-financed by the Welsh European Funding Office. Ms. Lang presented the WWF Scorecard which would be finally published in September 2006. The Scorecard also addressed conflicts between EC co-financing (Cohesion Policy, TENs, etc.). She also presented a WWF list of project selection indicators. Mr. Konecny showed a series of graphics with the preliminary split of the Cohesion Policy allocation in the new MSs – in several cases the historic 50-50 split in the Cohesion Fund is abandoned. He finished with a map of environmentally or otherwise controversial projects, entitled 'Cohesion or Collision?', that will be published in the beginning of March. The wish was expressed by the NGOs to be allowed more time for their presentations at future meetings.

Mr. Kremlis thanked the environmental NGOs. The Scorecard would be a most useful tool. The Birdlife conference was of interest. He noted that the main source of co-financing for Natura 2000 would be from the Rural Development and LIFE+ rather than the Cohesion Policy.

8 - Work of ENCORE and June 2006 Conference

The ENCORE representatives made three presentations: on its history and mandate (Bruno de Kerckhove, Wallonia Region, Belgium); the Florence conference and its consequent Action Plan (FLAP) in 2004 (Paolo Ranfagni, Tuscany Region Brussels Office); and the Åre conference in June 2006 (Jeccika Eriksson, Mid-Sweden Brussels Office).

Ms. Sanches thought that ENCORE could contribute to the DG REGIO Open Days next to be held 09-13.10.06 in Brussels. The list of the ENCORE regions and the names of the Steering Group was requested for the information of ENEA.

Mr. Kremlis thought that positive interactions should be made in the future between ENCORE and ENEA activities and he cited in particular the FLAP action on regional water management and ENEAs activities. He encouraged ENCORE to examine risk issues in the future and to attend the Åre conference.

9 - Any Other Business

Mr. Kremlis reminded ENEA that the updated Ideas Paper continued to be a useful reference for environmental administrations in MSs and was available on the DG ENV website.

The location and dates of the next ENEA meetings are: Santiago de Compostela, Spain, on 08-09.06.06; Rome, Italy on 16-17.11.06. These would be both back-to-back meetings with meetings of the national Spanish and Italian environmental networks respectively. The ENCORE conference would be held in Åre, Sweden, 15-17.06.06. Ms. Payne stated that the next GRDP meeting, addressing methodologies for greening regional development programs, would be held in Patras, Greece, 06-08.11.06.

It was suggested that in future ENEA meetings could take place over two days (afternoon and morning of the next day) to avoid rushing discussions and allow all colleagues to remain until the planned end of the meeting.

10 – Overall conclusions

Mr. Kremlis pointed out that the meeting had covered a lot of ground. 2006 was a particularly busy year due to the preparation of the NSRFs and the OPs, and environmental administrations faced the key challenge of ensuring the correct application of the SEA Directive. There were other issues that needed to be addressed including on risk prevention. At the next ENEA meeting in June 2006 it would be necessary to address again the development of an ENEA Workprogramme and other issues related to the ENEA “mandate” stemming from the questionnaire.