

**EUROPEAN ENFORCEMENT PROJECT
"EUROCAD"
FINAL REPORT**

CHEMICAL LEGISLATION EUROPEAN ENFORCEMENT
NETWORK
(CLEEN)

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Foreword

This report is the final report of an enforcement project carried out by 11 Member States of the European Union and Norway in the field of the enforcement of regulations on Cadmium within the framework of Directive 91/338/EEC. This report is the follow up of the interim report that was published in September 2000, describing the enforcement results until August 2000.

During this project, that started during spring 1999 and ended late 2001, enforcement authorities, custom services and other organisations cooperated intensively in order to improve the effectiveness of the enforcement of Cadmium legislation. Project participants were intensively involved in discussions regarding enforcement of European (environmental and Cadmium) legislation, and the necessity of adequate and coordinated enforcement.

The project has been carried out under the umbrella of the CLEEN network (Chemical Legislation European Enforcement Network). During 1999 till 2001 the permanent secretariat of this network is formed by the General Chemical State Laboratory of Greece and the Inspectorate of the Environment of The Netherlands.

The main goal of this network is to coordinate enforcement activities for chemical legislation. Actions such as prioritisation of topics, dissemination of information and discussion with the EC on enforceability of legislation are items that are derived from this main goal. The EuroCad project has provided a firm bases for further network building within CLEEN.

The EuroCad project has lead to a number of recommendations. These recommendations will be submitted to the European Commission by the CLEEN secretariat.

On behalf of CLEEN we would like to thank all participants for their efforts in building the established EuroCad network and the enforcement results that have been reached.

On behalf of CLEEN,
The members of the CLEEN secretariat,

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Signed

CHAPTER

1

Introduction

1.1**BACKGROUND AND PROBLEM DEFINITION**

In June 1991 the European Union published Directive 91/338/EEC (tenth amendment of Directive 76/769/EEC), aiming at restricting the marketing and use of Cadmium within the European Union. EU Member States had to implement this Directive into national legislation before 31 December 1992.

In 1995 the Netherlands Inspectorate for the Environment started a project, aimed at gaining insight into import and production of Cadmium containing products in the Netherlands. The project showed that about 15 to 20% of controlled synthetic products contained too much Cadmium. About 80% of these controlled products were imported from countries outside Europe. About 50% of the imported products were being marketed within EU-countries. Because enforcement of such import and production of Cadmium containing goods needs a European approach, The Netherlands initiated an enforcement project.

In March 1999, a project proposal was put forward to (representatives of) authorities of all EU Member States and Norway, involved in the enforcement of regulations on Cadmium. The proposal was to set up an enforcement project around a number of phases, combined with enforcement conferences and interim meetings. The project design is presented in more detail in chapter 2.

The project management was carried out by The Netherlands, supported by ARCADIS Consulting Engineers.

1.2**RELEVANCE FOR THE PROTECTION OF HEALTH AND THE ENVIRONMENT**

Cadmium is dangerous to health and to the environment. The Council Directive 91/338/EEC prohibits the use of Cadmium as a pigment, dye or stabilizer in plastics and its use as plating on metallic surfaces. When Cadmium is released into the environment it can be taken up by plants, including crops. One of the characteristics of Cadmium is the high solubility and mobility of its species in the aquatic environment. Cadmium ions are known to cause mainly severe damage to the kidneys. Cadmium has no known physical function for the human body.

Protection of health and the environment stands with the way in which relevant legislation is implemented and enforced adequately. Both implementation and enforcement of (European) legislation is of primary need to meet the aims of all environmental legislation: protection of man and the environment.

CLEEN activities are concerned with the enforcement of European environmental legislation; without adequate enforcement legislation is always a 'paper tiger'. The enforcement authorities working in CLEEN try to mobilise all relevant parties which could contribute to a higher degree of control and enforcement of chemical legislation. As Cadmium is an element which is used in a wide range of products which are transported all over the world, involvement of other authorities than only enforcement authorities is needed as well, like for instance customs. We will come back to this later.

1.3

PROJECT AIMS, EXPECTED RESULTS AND GENERAL SET UP

At the first conference, in The Netherlands, participants agreed on the following *EuroCad project aims*:

- the gathering and exchange of information on the implementation and enforcement of Directive 91/338/EEC in EU⁺¹ countries;
 - identification of differences and similarities between the EU⁺ countries;
 - enforcement methods, methods of analysis, sampling techniques, etc.;
 - activities regarding target groups, the extent of production and import of Cadmium-containing products;
- the identification of the enforcement authorities and their focal points, and their function/tasks regarding this matter;
- the investigation of the possibilities for a joint approach in the enforcement of relevant legislation;
- the collection of more data on other Cadmium-containing products (e.g. dyes and paints);
- striving for more uniformity in interpretation of (enforcement related) definitions (e.g. tariff codes of products).

The *expected results* of the project, as agreed during the first conference, were:

- insight into implementation and enforcement aspects of Directive 91/338/EEC in EU⁺ countries;
- establishing an overview of the network of authorities involved in enforcement matters concerning Cadmium (focal points);
- increased insight in import into, and production of Cadmium-containing products in EU⁺ countries;
- increased communication and co-operation on the enforcement of relevant EU legislation, for example by an alert system;
- exchange of experiences gained in enforcing this Directive in the EU⁺;
- awareness within companies in- and outside the EU of strengthened enforcement within the EU⁺;
- increased co-operation with customs in the EU⁺ countries;
- suggestions to the European Commission for improvement of the enforceability for the coming review of Directive 91/338/EEC;
- improved compliance by companies.

The *project* was *set up* around a number of phases: a general definition phase (carried out by the Netherlands), a preparation phase, an interim reporting phase, and an operational and final reporting phase. An elaboration of these phases is presented in chapter 2.

¹ European Member States and Norway.

1.4

PARTICIPATING COUNTRIES

The EuroCad project has been carried out by representatives of enforcement organisations of the following countries: Austria, Belgium, Denmark, Finland, France (since January 2000), Germany, Greece, The Netherlands, Norway, Portugal, Spain, and Sweden. All these countries attended one or more conferences and performed inspections of companies (except Belgium and Portugal). In some of these countries particular regions participated. Other EU countries could not participate, mainly because of national (enforcement) priorities and lack of capacity.

During the second half of the project, future Member States were informed about the CLEEN network and the EuroCad project. They were invited to participate in CLEEN and EuroCad as observers.

A list of participating countries, names of country co-ordinators and other project participants is presented in annex 1.

1.5

RELATION WITH THE CLEEN NETWORK

During a combined enforcement conference of the SENSE (Solid ENforcement of Substances in Europe) and EUREX (EUropean enforcement project on EXisting substances) projects in Dresden (Germany) in May 1999, participants agreed upon the need to maintain the experiences gained and to extend the experiences to other fields. Therefore it was decided to establish a new network by the name of CLEEN (Chemical Legislation European Enforcement Network), in which all Member States and Norway participate on a voluntary basis, covering the whole field of enforcement of chemical substances.

During the first EuroCad enforcement conference it was decided to combine the second EuroCad conference with the first CLEEN conference. During that second EuroCad conference it was decided to involve all future activities of EuroCad under the CLEEN umbrella.

1.6

INVOLVEMENT OF THE EUROPEAN COMMISSION

The European Commission (DG ENTR) welcomed and supported the Netherlands' initiative to seek co-operation between Member States and to exchange information on the enforcement of Directive 91/338/EEC on Cadmium. The Commission noted that experiences from this enforcement project could serve as a basis for further enforcement initiatives on other amendments to Directive 76/769/EEC on restrictions on the marketing and use of dangerous substances and preparations.

In the beginning of 2001 the European Commission presented the "White paper, Strategy for a future Chemicals Policy". Chapter 10 of this paper concerns implementation and enforcement. In this chapter the Commission "...proposes to create a network of the Member States and Candidate Countries authorities responsible for enforcement of new legislation on chemicals, to spread good practice and to highlight problems at Community level." The relationship between this White Paper and CLEEN will be highlighted in chapter 4 in more detail.

Other DG's of the European Commission, like DG ENV and DG TAXUD, have been informed throughout the project on the progression and interim results. Because of lack of

capacity it was not always possible for these DG's to join the EuroCad conferences and – meetings.

1.7 INVOLVEMENT OF CUSTOM AUTHORITIES

Based on the experiences of The Netherlands, the project proposal as mentioned above stressed the need to involve custom authorities in the enforcement project. This because daily work of custom services is concerned with (often fiscal) tasks on import of goods into the European Union. Custom authorities from a number of participating countries were involved in the project. Representatives participated actively in one or more conferences.

Results of this participation and co-operation will be described in chapter 3 and 4

1.8 TARGET GROUPS OF THIS REPORT

The target groups of this report are the European Commission (DG ENTR, DG ENV, DG TAXUD and eventual others like DG SANCO), national (enforcement) authorities and custom services. Recommendations to these target groups are presented in chapter 4.

1.9 SET UP OF THIS REPORT

Chapter 2 gives an overview of the project aims and design. The various project phases are enlightened and a summary is given on all project activities carried out.

Chapter 3 presents the project results of common activities that were announced in the interim report of September 2000.

Chapter 4 presents the enforcement results of the company inspections performed in the framework of EuroCad.

Chapter 5 contains conclusions and recommendations.

The annexes contain background information, such as:

1. List of EuroCad focal points and project participants;
2. List of focal points customs;
3. Minutes of the CLEEN stakeholdersmeeting (June 2001);
4. Letters of CLEEN to DG's of the European Commission on the White Paper;
5. Alert system format and a proposal for a European Rapid Alert System for Chemical Products (EURASCP);
6. Proposal communication project countries from the Far East;
7. Standard report form EuroCad company inspections.

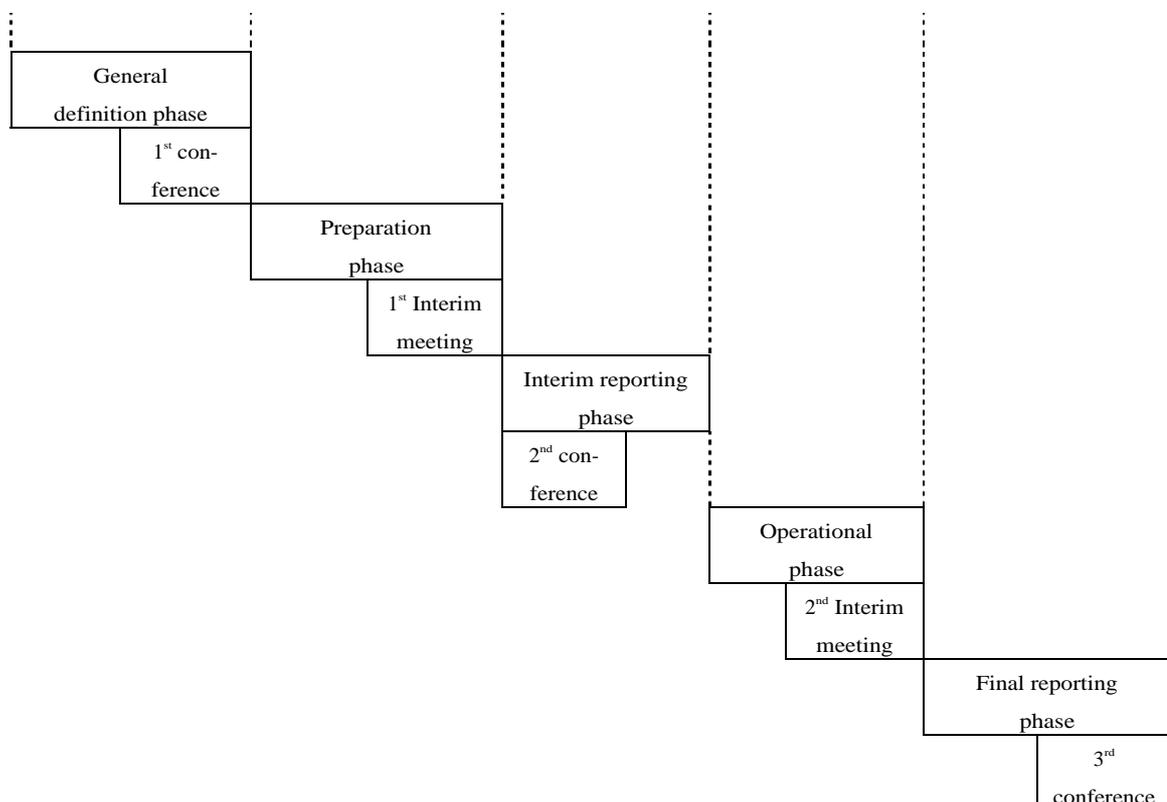
CHAPTER

2 Project design, phases and meetings

2.1

INTRODUCTION

The total EuroCad project is designed around central phases, combined with a number of conferences and interim meetings.



The explanation, set up and time periods of these phases is summarised below.

2.2

GENERAL DEFINITION PHASE AND FIRST CONFERENCE**General definition phase (January - September 1999)**

During the first initial phase of the project, the general definition phase, the enforcement authorities within EU Member States and Norway were asked to participate. A project plan was sent to all countries in which the proposed project set up was presented. All countries were asked to attend the first enforcement conference and to give input on themes as

national enforcement structures, focal points and national enforcement results (if any) on Cadmium regulations during the recent past.

First conference (September 1999)

A first enforcement conference was held in Oegstgeest (The Netherlands) on 22, 23 and 24 September 1999. All national representatives gave a short presentation of the national structure and existing co-operation regarding the enforcement of (European and national) Cadmium legislation. The proposed project plan was discussed also, and was agreed upon. During this conference the following agreements were made:

- agreement on participation of involved EU Member States and Norway in the whole enforcement project;
- agreement on the aims and set up of the total project;
- agreement on the content and set up of the preparation phase, by the execution of four sub projects: self regulation/responsible care, co-operation with customs, pilot actions and desk study.

A report of the meeting was distributed amongst the EuroCad network. Countries were asked for commitment in their own country whether or not to participate in the sub projects.

2.3

PREPARATION PHASE AND INTERIM MEETING

Preparation phase (October 1999 - April 2000)

During the preparation phase of the project the above mentioned four sub projects were carried out by countries concerned.

First interim meeting (April 2000)

During the preparation phase an interim meeting was held in Dortmund (Germany) on 4 and 5 April 2000. A task force with members of the four sub projects (Austria, Finland, Germany, Greece and The Netherlands) attended the meeting. Discussion points at this meeting were:

- results of the sub projects so far;
- problems and possible solutions in carrying out activities regarding the sub projects;
- the set up of the second conference.

A report of the meeting was distributed amongst the entire EuroCad network.

2.4

INTERIM REPORTING PHASE AND SECOND CONFERENCE

Interim reporting phase (May - July 2000)

During the interim reporting phase the final results of the four sub projects and general results were gathered and reported. An interim report was compiled (September 2001).

Second conference (May 2000)

A second enforcement conference was held in Athens (Greece) on 22 and 23 May 2000. During this second EuroCad conference the results of the preparation phase were presented and discussed. New actions were agreed (as being part of the EuroCad operational phase; July 2000 to October 2001) around three central theme's:

- theme A: "Import";
- theme B: "Information exchange"; and
- theme C: "Inspection activities".

The results of the actions of these themes are presented in chapter 3 of this report.

2.5

OPERATIONAL PHASE AND INTERIM MEETING

Operational phase (July 2000 – October 2001)

During the operational phase of the project the actions agreed upon during the second conference were carried out by participating countries. The actions focused mostly on inspection of companies and analyses of products. The actions and the results of these actions will be described in more detail in chapter 4.

Second interim meeting (January 2001)

An interim meeting was organised in January 2001 in Dortmund. During this interim meeting, which was combined with a CLEEN and EurOzone interim meeting, results so far and enforcement problems were discussed. It was agreed upon to focus the inspections that still had to be carried out on bags; based upon experiences it became clear that these kind of products often exceeded Cadmium limit values. Also it was agreed to work out a proposal for a feasibility study on the communication network (and communication channels used) of (trade) industries in the countries from the Far East. A report of the meeting was distributed amongst the EuroCad network.

2.6

FINAL REPORTING PHASE AND THIRD CONFERENCE

Final reporting phase (July 2001 – December 2001)

During the final reporting phase the co-coordinated enforcement results of the operational phase were reported, and this final report was compiled. The results of the enforcement activities are described in detail in chapter 4.

Third conference (September 2001)

The third and final EuroCad conference was held on 10 September 2001 in Vienna, Austria. At this conference, all project results were discussed and evaluated, and commitment was gained on future activities on enforcement of Cadmium regulations.

CHAPTER 3 Project results common activities

3.1

INTRODUCTION

During the second conference at Athens (May 2000) common activities were defined that were carried out during the operational phase of the EuroCad project (July 2000 – October 2001). These actions were announced in the EuroCad interim report (September 2000), and were centralized around three themes:

- theme A: “Import”;
- theme B: “Information exchange”; and
- theme C: “Inspection activities”.

The results of these actions are described in this chapter. Each theme will be explained shortly. Also the actions carried out and the products gained throughout the project will be mentioned. In most cases the results are shown in one of the annexes of this report.

3.2

THEME A: “IMPORT”

Common activities within this theme related to managing the import of Cadmium containing products into the European Union and Norway. Main activities carried out within this during the operational phase were:

- improving the involvement of custom authorities in the enforcement of Cadmium legislation;
- making updates of risk analyses carried out, also to promote the involvement of custom authorities in the enforcement of Cadmium legislation;
- getting commitment from non participating EU countries, and trying to involve them in the project.

Within this theme a list of focal points of custom services has been developed. This list is enclosed in annex 2. The focal points at custom services function as ‘liaison officers’ in the exchange of information between custom authorities on national scale.

Also a Risk Analysis, that has been drawn by Dutch Customs, was sent to the participants. This analysis was found to be of great value in setting up national cooperation with customs, and to improve the efficiency of Cadmium inspections.

Furthermore, Greece visited a meeting of the EC Working Group on Directive 76/769/EEC. Greece asked, on behalf of the EuroCad network, attention for enforcement related aspects of chemical legislation. At that moment the reactions of the members of the working group were not all quite positive. This could mean that the individual members of the EuroCad

network should inform their competent authorities sufficiently on the CLEEN network, its functions and the results of common enforcement activities.

Finally, the results of the conference have been sent to non-participating countries to keep them involved in the project. Unfortunately, Luxembourg, Ireland, Italy and the United Kingdom were not able to participate in the project. Main reason were national (enforcement) priorities and lack of capacity. Nevertheless, these countries have been informed about the project regularly.

3.3

THEME B: "INFORMATION EXCHANGE"

The theme "information exchange" concerns activities that relate to the exchange of relevant information, that could or should be used by all enforcement authorities concerned. Also the role of the European Commission was found to be of importance within this theme in order to intensify and improve existing co-operation.

The following central activities were part of this theme:

- establishing and improving the involvement of the European Commission (DG ENTR, DG ENV, DG TAXUD, eventual other DG's like SANCO) in the enforcement of Cadmium regulations;
- the exchange of enforcement activities and results;
- the development of an alert system, in order to exchange information on (rejected) goods and violations found.

The involvement of other non participating EU countries in these activities was also a point of attention.

Involvement of European Commission

The European Commission (especially DG ENV and DG TAXUD) were invited to join the project and to participate in the various conferences and meetings. There has also been a stakeholders meeting with representatives of the DG's of ENTR, ENV and TAXUD to present CLEEN as a network of enforcement activities. The European Commission proposes in their "White paper, Strategy for a future Chemicals Policy" to create "...a network of the Member States and Candidate Countries authorities responsible for enforcement of new legislation on chemicals, to spread good practice and to highlight problems at Community level". The stakeholders meeting was aimed at positioning CLEEN to form this network as well. The minutes of this meeting are enclosed in annex 3. The functioning of CLEEN as a stakeholder for (new) chemical legislation will be stressed in chapter 5 (conclusions and recommendations).

As a follow up of this meeting, letters were sent during September 2001 to the representatives at DG ENTR, DG ENV and DG TAXUD. These letters explain the functioning of the CLEEN network and the possibilities of expanding the CLEEN network into a network as mentioned by the White Paper. These letters are enclosed in annex 4.

Alert System

Spain, Greece and Finland developed early 2000 a proposal for a format for an alert system, in order to inform the colleague inspectors within the Member States and Norway quickly in those cases where violations are detected and products are planned to be transported to other 'EuroCad countries'. On the basis of the proposals it was decided to start using the format on an experimental basis. The format has been used frequently in the operational phase by many participating countries. The alerts were sent to all country coordinators and

other interested non participating countries for further distribution. The format for the alert system is shown in annex 5.

At the third and last EuroCad conference a draft Spanish proposal was discussed on a European Rapid Alert System on Chemical Products (EURASCP), to be used as a starting point to enlarge the focus and to establish a legal base for the use of it by all participating authorities.

Involvement of non-EU countries; proposal for a communication project

As many of the products that contain too much Cadmium are imported from countries from the Far East, it was proposed to set up a proposal for a (feasibility) study on a communication project. The first phase of this communication project should consist of a feasibility study. Within this first phase an inventory should be made on the possibilities to inform companies in countries from the Far East on EU Cadmium legislation. The project proposal is enclosed in annex 6.

3.4

THEME C: "INSPECTION ACTIVITIES"

Inspection activities relate to concrete (joint) enforcement activities, that were carried out by countries involved. Most important action concerned the inspections of a number of companies and/or products. The results should be reported.

The results of these inspections are presented in Chapter 4.

A general agreement made during the second conference was that products found at import which contain too much Cadmium, should be rejected and should be sent back to the country of origin. Products found on the European market with too much Cadmium, should be considered as waste.



Picture 3.1: Bag with a Cadmium exceeding limit value

Another action point considered the compilation of a list of 'risky products'. This list could be used in the selection of companies and products in order to enhance the chance of selecting products with Cadmium above the maximum limit value.

CHAPTER

4 Enforcement results company and product inspections

4.1

INTRODUCTION

One of the agreements made during the operational phase of the enforcement project under “Theme C” was that participating countries would carry out a number of inspections of companies and products in the framework of the EuroCad project. In principle, 10 companies and/or 25 products should be inspected; this also depending on the national capacity available for this project.

Company inspections were carried out by 10 countries during July 2000 till October 2001. Company inspections were performed by Austria, Denmark, Finland, France, Germany, Greece, Netherlands, Norway, Spain and Sweden. Belgium and Portugal could not perform any inspections, due to national enforcement priorities and capacity problems.

Results were mainly reported by an inspection report form. An example of the report form that has been used for reporting all results is enclosed in annex 7. It was decided to report inspection results only if violations have been detected; this aspect should be taken into account in understanding the data as presented in this chapter.

Firstly, the general results from these inspections will be presented (paragraph 4.2). The enforcement results of the (134) reported exceedings will be presented in paragraph 4.3. Country specific results will be presented as well (paragraph 4.4).

4.2

GENERAL RESULTS

Total numbers of inspected companies

A huge number of companies have been inspected within the EuroCad project. Not always the number of inspected companies has been registered, because:

- a number of inspections have been done as regular inspection activities;
- inspections on Cadmium legislation were done amongst control of other legislative issues;
- inspections were carried out by other enforcement authorities or custom services.

Of those countries that could report the number of inspected countries, the numbers are: Austria (15), Denmark (a number of shops, number unknown), France (6), Greece (10) and Spain: (42; of which 13 were not directly related to Cadmium inspections).

Product(s) (parts) above the Cadmium limit value

Within the framework of the EuroCad project 1129 samples of products or product parts have been taken. From all these samples taken, 172 samples (15%) turned out to be above the Cadmium limit value. The percentages of exceedings varied per country. This is mainly due to the way of selecting products for sampling. Products selected from the list of risky products (which are mainly produced in countries from the Far East) had a higher rate of exceedings than in case products were selected “at random”. These 172 reported samples were further analysed, except for 38 samples from Germany².

The results of the 134 samples of products or product parts that exceeded the Cadmium limit value were elaborated in more detail and are presented below.

Generally speaking it can be concluded that there are no differences in compliance with the Cadmium legislation between big or small companies.

4.3

RESULTS OF 134 REPORTED EXCEEDINGS

Type of inspected companies

Almost all companies where products were detected that exceeded the Cadmium limit value concerned importers/traders, importing products from outside the EU (95%). (95%) concerned. This figure is excluding inspections from Finland and Greece; data on this issue could not be provided.

Type and date of inspections

Most inspections of companies where products were found above the Cadmium limit value were announced (75%, 103 out of 134); 25% (31) was not announced. Almost all inspections took place in the year 2001.

Quality of company records

In the report form a question was included on the inspectors' impression of the internal control and quality of company records. In about 65% of the cases, the records were found to be adequate, in 15% they could be better, and in 20% they were poor. These figures are excluding the inspections from Finland, Germany and Greece; data on this issue could not be provided.

Knowledge of Cadmium legislation

Companies were also asked about their knowledge of Cadmium legislation. In about 85% of the cases they were sufficiently informed, in about 15% of the cases they were not informed at all. These figures are excluding the inspections from Finland, Germany and Greece; data on this issue could not be provided.

Categories of products selected for inspection and sampling & analysing

During the second interim meeting (January 2001) it was suggested to focus the inspections during the second half of the operational phase on bags. This suggestion was based on experiences from The Netherlands: it turned out that high amounts of imported plastic bags contained Cadmium above the limit value.

² A number of inspections carried out in Germany could not be analysed in detail, because the inspection report form was not used in 38 cases.

Bags formed a significant part of all products of which the Cadmium limit value was exceeded (65%). The other 35% concerned shower curtains, rainwear, footwear, sticky tapes and foils.



Picture 4.1: Bag with a Cadmium exceeding limit value

Type of plastics

During the second interim meeting it was also suggested to focus the inspections on PVC products. This because (on the basis of the experiences with the risk analyses) it turned out that PVC often contained too much Cadmium. Almost all products that have been sampled and exceeded the Cadmium limit value were made of PVC. It also turned out that some PVC products were made of recycled plastics.

Status of the products that were sampled

Almost all products or product parts (90%) that were selected for sampling and analysing (and which exceeded the Cadmium limit value) were produced outside the European Union, with as final destination the 'own' country (the country in which the products have been inspected).

Country of production

Almost all products of which the samples exceeded the Cadmium limit value originated from non EU countries, such as China, Hong Kong, South Korea, and Taiwan.

Samples taken

Most of all samples were taken by custom authorities (about 85%). In Austria, Denmark and The Netherlands (partly), samples were taken by inspectorates.

Used methods for analyses

A number of methods for analysing the Cadmium level were used:

- ENV 1122;
- XRF;
- INAA;
- AAS; and
- HGA.

Absolutely speaking, most methods used concerned ENV 1122 and XRF. XRF was only used in The Netherlands.

Follow up actions

Follow up actions, based on the results of the company inspections, are of primary concern of the countries concerned (because of national competencies).

Different follow up options can be chosen in cases where products are found above the Cadmium limit value. Examples are:

- Products above standard can be sent back to the country of origin;
- Products above standard can be considered as (hazardous) waste and can be destroyed;
- Products above standard can be sold outside the European Economic Area;
- Product parts with too much Cadmium can be replaced.

As a general principle it was decided, that products with a Cadmium level above standard that were going to be imported into the European Union should be rejected and should be sent back to the country of origin. In cases where products are already imported into the EU, the products should be considered as waste.

Also different options can be chosen for administrative or legal follow up actions to companies concerned, like:

- Warning letter;
- Administrative sanction;
- Financial penalty;
- Others, like providing companies with additional information on specific (European and national) legislation that is in force.

In many cases the (administrative or legal) follow up actions are still in procedure and investigations are still running. Results below should therefore be considered as indicative results; results are based on reported inspections till mid October 2001.

In almost 70% of all cases where products were identified with a Cadmium content above standard, products were sent back to the country of origin. In most of these cases this action was followed by a administrative and/or legal sanction. Follow up actions are depending on the specific cases and the national (enforcement) regulations that are in force.

In about 10% of all cases the products which exceeded the Cadmium limit value were regarded as (hazardous) waste and were destroyed.

In about 20% of all cases:

- product parts with a Cadmium content above the limit value have been replaced;
- products have been sold outside the European Economic Area; or
- other actions have been taken, like providing additional information on relevant legislation to companies concerned.

4.4

COUNTRY SPECIFIC ENFORCEMENT RESULTS

Austria

Austrian inspectorates of various Federal States carried out inspections at companies. In total, 47 samples were taken out of 38 products. 13 Product (parts) concerned PVC, 10 concerned PE, and the rest contained various materials (like PP, PS, Polystyrol, HDPE). From these 38 products, 21 have been produced in a EU country, 7 have been produced in a non EU country (mostly Switzerland), and of 10 products the country of production was unknown at the time of the inspection. From all samples taken, only 1 product was found that exceeded the Cadmium limit value. This product (bath sandals) was produced in a South Eastern Asian country.

All samples were taken by inspectorates. GF-AAS and HGA were used as analysing standard method.

Denmark

Inspectorates from Denmark inspected 20 bags. Totally 30 product parts were analysed out of these 20 bags on its Cadmium content. (6 parts of) 5 bags exceeded the Cadmium limit value of 100 mg/kg.

The Cadmium levels varied from 388 till 1054 mg/kg. Most products concerned backpacks and (toilet and beach) bags. These products have been destroyed. Countries of origin concerned Hong Kong and Thailand. ENV 1122 was used as analysing standard method. All samples were taken by the inspectorates.

Finland

From all 81 products (with 89 product parts) inspected, 14 products or product parts contained a Cadmium concentration above 100 mg/kg. The results of the analyses varied from 100 till 910 mg/kg. Most of these products concerned bags, clothing (rain suits) and shower curtains, mostly originating from China, Hong Kong and Taiwan. ENV 1122 was used as analysing standard method. All samples were taken by customs. All products found that exceeded the Cadmium limit value were sent back to the country of production or were considered as waste.

France

Inspections in France have been carried out in two periods: one in 2000, and one in 2001. During 2000 a number of inspections have been carried out by the General Directorate for Consumers, Competition and Fraud Repression (DGCCRF, within the ministry of Industry) on plastic articles, mainly school articles (rucksacks, plastic paper to cover school books, little school cases, intercalates, etc). Four regional services were involved in this inquiry. None of these articles contained too much Cadmium.

After the second interim meeting (January 2001) a second 'wave' of inspections have been held. The inspections focussed on bags. Custom authorities cooperated during these inspections. Analyses were performed by custom labs with the support of DGCCRF labs.

In total, 9 products have been sampled and analysed on its Cadmium level. One product contained too much Cadmium (557 mg/kg), which originated from South Korea. Induced plasma emission spectrometry was used as analysing standard method.



Picture 4.2: Mobile phone cover

Germany

In Germany the EuroCad project was carried out by 7 out of 16 Federal States. Most common inspection activities started after the second conference (May 2000), and were nationally coordinated by a number of national project meetings. Custom services were willing and ready to support the inspectorates. Essential for this support by customs was a suspect of a violation. It was decided to consider the provided list of risky products as a sufficient indication for possible violations.

In total 580 samples were taken. From 38 samples it turned out that the Cadmium content was above the limit value of the Directive (100 mg/kg). The Cadmium values found ranged from 107 till 3384 mg/kg. ENV 1122 was used as analysing standard method.

In 56 of the 580 samples taken, the results have been reported by the hand of an alternative report form. Companies inspected concerned mainly importers/traders. From these 56 samples taken, 10 were above the Cadmium limit value.

Greece

In total 272 samples have been taken by custom authorities in Greece. Out of these 272 samples, 40 exceeded the Cadmium limit value of 100 mg/kg. All these products concerned

bags and footwear and were made from PVC. Cadmium values found varied from 120 to 1480 mg/kg. Almost all products which exceeded this value originated from countries from the Far East (mostly China and Hong Kong). AAS was used as analysing method. All products have been sent back to the country of origin.

Netherlands

From all 78 inspected products or product parts, 65 products or product parts exceeded the limit value of 100 mg/kg. The range varied from 132 to 1210 mg/kg; the average limit was about 350 mg/kg. Most of the products above limit concerned (parts of) suitcases, (travel or flight) bags and beauty cases. Almost all products originated from countries from the Far East, such as China and Taiwan. XRF and INAA were used as analysing methods. Samples were taken by customs and inspectorates.

Most of the products found that exceeded the Cadmium limit value have been sent back to the country of origin.

Norway

All analysed products were made of PVC. In total 57 separate analyses were done. Importing firms (17) and shops (2) were involved. From 7 products or product parts the Cadmium value exceeded the limit value of 100 mg/kg: levels varied from 391 till 1040 mg/kg. ENV 1122 was used as analysing method. All samples were taken by customs. Products found above the Cadmium limit value were destroyed.

Spain

In Spain 13 of 17 autonomous communities participated; public health inspectors of these communities carried out the inspections. The actions were coordinated by the Ministry of Health and Consumer Protection (MHCP). Spain has developed its own report form and a small guidance manual on the Cadmium Directive in order to start the inspections. PVC products have been inspected at 18 companies. At these companies, 93 products have been inspected and 2 samples were taken for analyses. No exceedings of the Cadmium limit value were found. Besides, one of the inspected companies formulates a mixture of PVC stabilisers that is sent to a non EEA country about once a year.

Paints have been inspected at 11 companies. 43 products have been inspected, and 3 samples were taken for analyses. No exceedings of the Cadmium limit value have been found.

ENV 1122 and Standard Method Atomic Absorption (ISO 6503) were used as analysing method. While checking the paints sector it has been found out that Directives 67/548/EEC (Annex XI) and 88/379/EEC (Annex III) the safety data sheets for pigments and dyestuffs still contained Lead (Pb), Chromium (Cr) and diarylic compounds. These facts interfere with the Technical Progress Adaptations (TPA's) of Directive 76/769/EEC.

Although the Cadmium directive is not applicable for 'polymeric material to be in contact with foodstuffs', a number of inspections have been carried out in this sector. In total 13 companies have been visited and 43 products were inspected. No samples were taken. While performing these inspections it was found that this specific legislation has no limits for the total Cadmium content and for Cadmium migration into foodstuffs wrapped in it.

On April 2001 a self composed brochure on the Cadmium Directive obligations has been issued by agreement of Spanish Chemical Association and the MHCP.

While performing EuroCad inspections in Spain it has been detected that Cadmium occurs more often as a component in the production of batteries and dry batteries, rather than industrial or mobile ones.

Sweden

Sweden carried out inspections at 3 companies. Three product categories have been inspected: handbags, toilet bags and sportbags. In total, 7 samples have been taken. No exceedings have been found. AAS was being used as analysing method.

CHAPTER 5 Conclusions and recommendations

5.1 CONCLUSIONS

5.1.1 INTRODUCTION

A number of conclusions can be derived, based on the results of the company inspections and other enforcement results as presented in chapter 3 and 4. Conclusions are categorised amongst six main items:

- General results in relation to the initial project aims;
- Enforcement of legislation and tracking down violations;
- Differences in enforcement approach and enforcement results;
- Enforceability of the Cadmium directive;
- Increased cooperation between inspectorates and customs;
- Project planning and preparation of national enforcement activities.

Conclusions on all these items will be elaborated in detail below. These conclusions will form the bases for the recommendations, which are given in paragraph 5.2.

5.1.2 GENERAL RESULTS IN RELATION TO THE INITIAL PROJECT AIMS

At the first conference (Oegstgeest, The Netherlands, September 1999), a number of project aims and expected results were formulated. These were already presented in paragraph 1.3.

Evaluation of the project aims

All project aims have been reached:

- Information on implementation and enforcement aspects of Directive 91/338/EEC has been gathered and exchanged between all participating countries, such as: differences and similarities, enforcement methods, methods of analyses, sampling techniques, and knowledge of the various target groups;
- Relevant enforcement authorities and their focal points have been identified and an enforcement network on Cadmium legislation has been built;
- The possibilities for a joint approach in the enforcement of relevant legislation has been investigated (and has been implemented);
- Data on Cadmium containing products have been collected and exchanged; and
- The subject of uniformity in interpretation of definitions has been discussed and has been tackled partly.

Evaluation of expected results

The project has provided many enforcement results. In relation to the expected results and the above mentioned achieved results, the following additional results can be mentioned:

- Increased insight has been gained into the import into - and production of Cadmium containing products in EU⁺ countries;
- There is increased communication and co-operation on the enforcement of relevant legislation. Experiences in enforcement have been exchanged intensively;
- A start has been made to increase the awareness within companies inside the EU on strengthened enforcement;
- Cooperation with customs in various participating countries has been set up and has been intensified;
- A number of suggestions for improvement of the enforceability of the Cadmium directive are identified (see also paragraph 5.2); and
- Companies have been checked on meeting the requirements of the Directive, violations have been tracked down and compliance has been improved.

5.1.3

ENFORCEMENT OF LEGISLATION AND TRACKING DOWN VIOLATIONS

A number of coordinated enforcement actions have been carried out by participating countries. These actions concerned exchange of information on enforcement experiences, enforcement approaches, and (interim) results of inspection of companies and products. A brief summary of the enforcement results is presented below.

Company inspections have been performed by Austria, Denmark, Finland, France, Germany, Greece, Netherlands, Norway, Spain and Sweden. A large number of violations have been detected and have been tracked down. Generally speaking it can be concluded that there are no differences in compliance with Cadmium legislation between big or small companies.

In the framework of the EuroCad project 1129 samples of products or product parts have been taken. From these samples 172 samples (15%) turned out that the Cadmium limit value was exceeded. This percentage varied strongly per country. Because of differences in 38 inspection reports that have been submitted, 134 sampling results (of products or product parts that exceeded the Cadmium limit value) could be elaborated in more detail.

From these 134 samples a number of results could be derived:

- Almost all samples were taken at importers/traders, that imported products from outside the EU;
- Most inspections (about 75%) were announced; almost all inspections were carried out in 2001;
- In about 65% of the cases the company records were found to be adequate, in 15% they could be better, in 20% they were poor;
- In about 85% of the cases the companies have been sufficiently informed about (European and national) Cadmium legislation, in about 15% they were not informed at all;
- Bags formed a significant part of all products that have been inspected and exceedings of the Cadmium limit value have been detected. Other products concerned shower curtains, rainwear, footwear, sticky tapes and foils;
- Almost all products that were sampled and exceeded the Cadmium limit value were made of PVC. Some products were made of recycled plastics;

- Almost all products (90%) that were selected for sampling and analysing (and which exceeded the Cadmium limit value) have been produced outside the European Union, with its final destination the 'own' country (the country in which the products have been inspected). Products mostly originated from non EU countries like China, Hong Kong, South Korea, and Taiwan;
- Most samples (85%) have been taken by custom authorities; 15% was taken by inspectorates. Used methods for these analyses concerned mostly ENV 1122 and XRF;
- Follow up actions have been taken by countries with reference to their national competencies and regulations. As a general principle within EuroCad it was decided that products with a Cadmium content above standard that are being imported into the European Union should be rejected and should be sent back to the country of origin. In case if the product already is imported into the EU, the product should be regarded as waste.

In many cases the (administrative or legal) follow up actions are still in procedure and investigations are still running. In almost 70% of all cases products have been sent back to the country of origin. In most of these cases this action was followed by a administrative and/or legal sanction. In about 10% of all cases products, which exceeded the Cadmium limit value, have been regarded as (hazardous) waste and were destroyed.

5.1.4

DIFFERENCES IN ENFORCEMENT APPROACHES AND ENFORCEMENT RESULTS

Despite the enforcement results as mentioned above, a number of issues have been detected that are of strong importance on the way in which these results have to be interpreted. A number of these issues are mentioned below.

The way of selecting products for sampling

At the project start there was almost no information exchange on national and European scale between enforcement and custom authorities on methods for selecting products for sampling. During the project, information was exchanged on risk analyses, methods for selecting risky products and ways in which customs and inspectorates cooperated in various countries. Anyway, the ways of selecting products for sampling differ and influence the 'successfulness' of finding products that exceed the Cadmium limit value of the Directive.

Different aspects can be mentioned that influence this successfulness:

- The method that is being used for selecting products, and the various documents and selection criteria that are being used;
- The way in which inspectorates and customs co-operate and use each others' information sources;
- The methods of analyses used and preparation of samples;

Therefore, the place in the product chain where samples are taken (at a producer or trader, at the border, at storehouses or at shops) is of particular interest.

Methods of analyses

Different methods of analyses are used. Most common methods of analyses used within EuroCad concerned ENV 1122 and XRF. Nevertheless, some other analysing techniques have been used, such as AAS, HGA and INAA.

The differences in which the Directive has been implemented and can be enforced

The Cadmium directive has been implemented into national legislation by all participating countries. The way in which this Directive has been implemented and enforced differs per country. On some issues differences in enforcement aspects occur because of differences in

implementation. For example: in some national legislations (like in Austria, Netherlands and Sweden) no distinction has been made in the legislation between the use of Cadmium as a stabiliser or as a pigment. The reason for doing so is that once Cadmium has been applied in a product there is technically no method available in determining afterwards to what purpose (pigment or stabiliser) Cadmium has been applied for in the material. Therefore in those countries no enforcement problems occur regarding these issues. In those cases where differences are made into national implemented legislation, it is difficult (and in several situations even impossible) to determine the kind of application for which Cadmium is used in a product. Therefore a recommendation would be to seize making a distinction between the type of application and just to prescribe a limit value of 100 mg/kg for Cadmium in the Directive, no matter the type of use or application.

5.1.5 ENFORCEABILITY OF THE CADMIUM DIRECTIVE

Also a number of issues on (problems with) the enforceability of the Directive have been identified. These are summarised below.

Violations: parts of combined products?

The maximum Cadmium limit value as stipulated in the Directive is 100 milligram per kilogram. An important question raised in the analyses of products and justification of eventual violations, is the question if this maximum Cadmium limit value is applicable for parts of products or combined products. This because products are often assembled of different parts with different types of plastics and materials. For example: during the operational phase of the project a number of bags have been checked on Cadmium levels. In a number of cases, Cadmium limits of parts of these bags exceeded limit values. From an enforcement point of view it is the question if the whole product, or parts of the product are not in line with the requirements of the Directive. This question also influences the way in which enforcement activities are carried out to producers, importers and traders, for example in cases where the products have to be send back to the country of origin, or have to be destroyed.

Relationships with other directives and the Green Paper

The relationship between the Cadmium directive and other directives should be clearly indicated, for example the relationship with toys.

Although the Cadmium Directive (91/338/EEC) is not applicable to polymeric material to be in contact with foodstuffs, its specific EU legislation keeps out Cadmium compounds of the positive list of additives and regulates 0.2% of Cadmium in pigments used. However it does regulate neither Cadmium as a possible impurity nor as a maximum limit in the final product.

An important issue within the Green Paper on PVC is the aim to improve recycling. The Cadmium levels detected interfere with this aim of the Green Paper. Recycling of PVC with Cadmium limits above standard could lead to a higher emission of Cadmium into the environment. Also, some products were made from recycled plastics.

This contradiction should, especially in relationship with the results of the company and product inspections, be taken into account by the Commission.

5.1.6 INCREASED COOPERATION BETWEEN INSPECTORATES AND CUSTOMS

Almost all participating countries reported improved cooperation between inspectorates and custom authorities. The improved cooperation often led to a better selection of products for sampling.

Nevertheless, cooperation between inspectorates and customs is still problematic in some countries. The European Commission, especially DG TAXUD, could help to tackle this problem (see also the recommendations).

5.1.7 PROJECT PLANNING AND PREPARATION OF NATIONAL ENFORCEMENT ACTIVITIES

Despite the effort and activities provided during the preparation of all enforcement activities, some difficulties arose that influenced the general outcomes.

A first remark concerns the need for a uniform starting point. A lot of experiences have been gained by (in particular) The Netherlands before the start of EuroCad, especially regarding cooperation with custom authorities. These experiences were brought in as being useful experiences for other enforcement activities. Some ambitions were found to be too ambitious: setting up cooperation between inspectorates and custom authorities was found to be difficult, especially during the preparation phase. Learning point for initiating new enforcement projects in the framework of CLEEN is that there should be a more or less uniform starting point and experiences between all countries involved. This makes it easier to develop tools (guidance manuals, strategy documents) and to set more specific objectives.

The general project planning and the definition of different phases within the enforcement projects, such as EuroCad and EurOzone, was found to be of good quality. The structure of orientation, preparation and operational phases enabled participating authorities to prepare themselves sufficiently. Nevertheless, a second remark concerns the planning of capacity and priorities in enforcement from European 'EuroCad scale' to national scale. In some countries, like Austria, Germany and Spain, it was difficult to change priorities and capacity planning throughout the year; flexibility was lost. These aspects should be taken into account by the network in setting up new European enforcement projects.

5.1.8 GENERAL PROJECT EVALUATION

During the last EuroCad conference (Vienna, September 2001) the project was evaluated in general. Participating countries mentioned a number of general results from the project. Despite lack of capacity and budgets, a lot of targets have been reached. In a number of countries cooperation with custom authorities would not be reached without having carried out the EuroCad project.

Enforcement of Cadmium legislation and the need to cooperate with custom authorities was found to be a good example of network building that could be of need for other environmental (enforcement) issues. In a number of countries the European approach of EuroCad has gained more interest for enforcement on national level.

5.2 RECOMMENDATIONS

A number of recommendations can be given, based on the enforcement results as presented in chapter 3 and 4, and the general conclusions as mentioned above.

5.2.1 IMPROVE THE ENFORCEABILITY OF THE DIRECTIVE AND TACKLE DIFFERENCES IN ENFORCEMENT APPROACHES

Violations: parts of combined products?

Based on the definition of the limit value as stipulated in the Directive, the fundamental question for adequate enforcement of the regulations is whether the limit value of 100 milligram per kilogram is applicable for the whole product, or for parts of the products. This aspect is not clearly identified by the Directive.

It is recommended to adjust the Directive on this point, like e.g. "...For the purposes of this Directive and pursuant provisions, a product containing Cadmium shall further be a product made up of different parts, of which one or more parts contain Cadmium, with a content higher than 100 mg/kg, in so far as the Cadmium has been used as ..." etc.

Work on an 'enforcement test' of environmental legislation

It is of strong need to pay attention on the enforceability of European (chemical and environmental) legislation in an early stage of policy making. Experiences 'from the field' gained during this project could improve the effectiveness of legislation. The EuroCad network and its participants recommend that CLEEN should have a advisory task to the European Commission and the national Competent Authorities to work on the improvement of the enforceability of chemical legislation. CLEEN should act as a stakeholder (see also recommendation 5.2.3).

Improve and clarify the Directive with enforcement related issues

The Cadmium Directive could be clarified from an enforcement point of view, in order to improve its enforceability and to reduce multi interpretable provisions.

- A part of this clarification should be done by further elaboration of (the requirements on) sampling and analysing techniques;
- Generally speaking and in relation to product requirements, one directive should not exclude others: products should comply with all directives;
- In inspecting products 'on spot' it has been found very difficult to control the final use of Cadmium containing materials (that may contain more than 100 mg/kg) as a stabiliser or as a dye. The limit value should be 100 mg/kg for Cadmium, no matter the use;
- Article 2b of the framework Directive (76/769/EEC) refers to the fact that this directive is not applicable when products included in it are exported to third countries. It could be considered to abolish this article 2b; see also the particular enforcement case which occur on this issue in Spain (paragraph 4.4);
- The framework Directive (76/769/EEC) has a lot of technical progress adaptations (TPA's), which makes it very complicated to understand the actual requirements. It is suggested to update this Directive, similar to the update of Directive 67/548/EEC on substances;

Besides, there is a need for a review of the Cadmium Directive (91/338/EEC) that more clearly indicates the trade sector (producers, importers, distributors, transformers, formulators, users, etc.) as responsible party for compliance with the regulations. Besides, the uses of Cadmium and its compounds production have to be nowadays updated. The outcomes of the Risk Assessment Report on Cadmium and Cadmium Oxide that is being prepared by the Belgium Competent Authority should be taken into account in relation to the comments made above.

Make use of mobile screening instruments

In most circumstances samples of products are taken 'on spot', but analyses of products on Cadmium values takes place at laboratories. A disadvantage is that it takes time before the results of analyses are known. During this time products can not be transported, pending the announcement of the results of the analyses. Companies often complain about this, because transport time is being delayed. Participants therefore stressed the need to use mobile screening instruments, in order to detect eventual violations of the Cadmium directive 'on spot'.

Promote the use of the list of risky products and make regular updates

Because the list of risky products was found to be of high value in the improvement of cooperation between inspectorates and custom authorities, further use and enlargement of this list should be promoted on European and national scale. Participating countries suggested a regular or yearly update of a list of risky products. Eventually the list of risky Cadmium products could be enlarged to all products with limitations under the framework directive (76/769/EEC). This action could be taken into consideration by the CLEEN secretariat in planning future enforcement activities.

5.2.2

GIVE FOLLOW UP ON NATIONAL ENFORCEMENT ACTIVITIES

Company inspections on Cadmium regulations as regular national activities

The EuroCad project has ended in issuing this final report. Participating countries stressed the importance of continuing enforcement activities on a national scale as part of regular enforcement practices. In a number of countries where deficiencies have been detected, follow up actions will be used for further network building and enhancement of the established cooperation. The alert and EURASCP system (see appendix 5) should be used in informing each other about violations regarding Cadmium legislation.

Project participants will advise to their national organisations to integrate enforcement activities on Cadmium legislation into their regular activities. The results of these enforcement activities will be reported to CLEEN on an annual bases and will be evaluated during the regular CLEEN conferences. CLEEN will, as part of its tasks in relation to the stakeholdership, take these results into consideration in forwarding proposals for improvement of environmental legislation.

Inform companies and trade organisations on Cadmium legislation

During the EuroCad project a brochure text has been developed. This brochure text has been used by several countries in informing European industry and trade organisations about the environmental hazards and the regulatory obligations of the Cadmium directive. It is recommended to all authorities concerned to keep this industry informed about the Cadmium regulations; the brochure text could still be of important use.

A proposal for a communication project to industries in countries from the Far East has been developed. Participating countries within EuroCad and the CLEEN secretariat will investigate possibilities for carrying out this project and to find the necessary budgets needed for it.

5.2.3

FURTHER IMPROVEMENT OF COOPERATION BETWEEN AUTHORITIES INVOLVED

Inform national competent authorities on EuroCad results and its recommendations

Providing the national competent authorities with the results of enforcement activities of EuroCad (and results of other enforcement projects) is of high importance. These competent authorities will be informed about the results by the focal points of EuroCad, if not done already. Also the CLEEN secretariat will take action on this point; this in close communication with representatives of DG ENTR.

The national competent authorities are asked to involve the results of (EuroCad) enforcement activities into their daily work in compiling European environmental legislation.

Training of customs

National enforcement authorities are asked to promote training of customs (e.g. by setting up an exchange programme) with regard to the use of the list of risky products, sampling

methods and analysing techniques. In doing so, custom authorities can help inspectorates in the enforcement of Cadmium legislation in more detail. Information exchange between custom authorities could be stimulated as well; the European Commission (DG TAXUD) could take an active role in this.

Involvement and support of the European Commission

DG ENTR of the European Commission participated in a number of EuroCad conferences. This was found to be of very high value. Despite these efforts the involvement and participation of the European Commission (especially DG ENV and DG TAXUD) was missed, especially during the regular EuroCad conferences and meetings. Therefore the European Commission (DG ENTR, DG ENV, DG TAXUD and eventual DG SANCO) is asked to support and to participate in future CLEEN enforcement activities. Participation of these DG's at the conferences of CLEEN, EurOzone and ECLIPS is needed as a minimum. In doing so, participating authorities can discuss enforcement issues and enforcement related aspects (like interpretation problems) with DG representatives. On the other hand, DG representatives will be informed about the workability of European environmental legislation from an enforcement point of view. Furthermore, the different DG's (like DG TAXUD) could take national enforcement problems (like still existing problematic cooperation with customs) into account in their work.

Furthermore, support of the European Commission in accompanying concrete enforcement projects (such as EuroCad, EurOzone and ECLIPS) could be provided by funding these projects. Budgets could be provided for (partly) allowance of costs for a number of activities, like:

- Staffing the CLEEN, EurOzone and ECLIPS secretariat;
- Development of tools (brochures and leaflets on enforcement of European environmental legislation);
- Providing instruments for checking and enforcing European legislation 'on spot', like sampling and analysing instruments;
- Assisting the execution of the communication project as mentioned in chapter 3 and presented in annex 6.

Finally, the enforcement results from EuroCad should be taken into account by the European Commission in setting up or adapting European environmental legislation. This also with regard to the proposed stakeholdership of CLEEN.

ANNEX 1

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SWEDEN

United Kingdom

Department Environment, Transport and the Regions

M. Roberts

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SW1E 6 DE LONDON

UNITED KINGDOM

United States of America

U.S. Environmental Protection Agency

C.I.D.

Mr L. Halkias

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A1.4 EurOzone project management & secretariat

ARCADIS

Ms Angela van Heeswijk

P.O. Box 264

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Mr Charles Nijssen

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THE NETHERLANDS

ANNEX 2

List of focal points customs

FOCAL POINT CUSTOMS IDENTIFIED

Denmark	Name :	Mr Heine V. Sørensen, Ministry of Taxation
	Address :	Central Customs and Tax Administration Ostbanegade 123 DK-2100 Copenhagen O + 45 35297409
	Phone :	+ 45 35434710
	Fax :	hes@tu22.ccta.dk
	E-mail :	
Finland	Name :	Mrs. Leena Partanen
	Address :	Finnish Customs Laboratory P.O. Box 53, FIN-02151 Espoo
	Phone :	+ 358 9 614 3261
	Fax :	+ 358 9 463 383
	E-mail :	leena.partanen@tulli.fi
France	Name :	Mrs. Pin
	Address :	DGDDI- bureau E3 23 bis, rue de l'Université 75700 PARIS 07 SP
	Phone :	(33) 144744617
	Fax :	(33) 144744940
	E-mail :	DO-Envir:E3- REGLETECH5@[E3.DG.MEL.douane.finances.gouv.fr]
The Netherlands	Name :	Mr. Bart Veerman
	Address :	P.O. Box 18280 3501 CG Utrecht
	Phone :	+ 31 30 275 61 48
	Fax :	+ 31 30 275 6200
	E-mail :	douane-rtp@bcpp.nl
		This is a general address, it is necessary to point out the name in any message
Norway	Name :	Mr. Johnny Strand
	Address :	Directorate of Customs And Excise Enforcement Department Anti Smuggling Section Postbox 8122 Dep
	Phone :	0032 Oslo
	Fax :	+47 22 86 03 94
	E-mail :	+47 22 17 05 89 Johnny.Strand@toll.no
Greece	Name :	Mrs. Sophia Papagianni
	Address :	DG Douanes 19th Div. Custom Procedures 10 Kar.Servias GR-101 84 Athens - Greece

Phone : +30 1 32 43 183
 Fax : +30 1 32 25 731
 E-mail :

and

Name : Mr. Ekaterini Karagianni
 Address : DG Douanes
 33rd Div. Customs Control

Phone : +30 1 72 59 328
 Fax : +30 1 32 25 192
 E-mail :

Austria Name : Mr. Gerhard Marosi
 Address : Federal Ministry of Finance
 Himmelpfortgasse 4 - 8

Phone : A-1015 Vienna
 Fax : +43 1 51433-1236
 E-mail: +43 1 5120927
 Gerhard.Marosi@bmf.gv.at

Sweden Name : Ms Katarina Sundqvist
 Address : Swedish Customs
 Box 12854
 SE-112 98 Stockholm

Phone : +46 8 4050258
 Fax : +46 8 4050521
 E-mail : katarina.sundqvist@tullverket.se

Germany Name : Ms Andrea Steuer
 Address : Bundesministerium der Finanzen
 Referat III B7
 Langer Grabenweg 35
 D-53157 Bonn

Phone : +49-2286822480
 Fax :
 E-mail : e-mail: andrea.steuer@bmf.bund.de

Belgium Name : Dhr. Defays, Customs, Brussel.
 E-mail : F.DeFays@doua.minfin.fed.be

COUNTRIES WHERE NO FOCAL POINT HAS BEEN IDENTIFIED

Contact persons mentioned are the Eurocad country co-ordinators

Spain Name : Mr Francisco Vargas Marcos
 Ministerio de Sandidad y Consumo - Subdireccion
 General de Sanidad Ambiental

Address : Paseo del Prado 18-20
 ES-28071 MADRID

Phone : tel: +34-91-5964446
 Fax : fax: +34-91-3601341
 E-mail : e-mail: fvargas@msc.es

United Name : Mr. Mike Roberts
 Kingdom Address : 3/E7 Ashdown House
 123 Victoria Street
 SW1E 6DE London

	Phone :	tel: +44-171 890 5268
	Fax :	fax: +44-171 890 5229
	E-mail :	e-mail: mike_roberts@detr.gsi.gov.uk
Portugal	Name :	Mrs Ana Magro e Silva
	Address :	Ministério do Ambiente Inspecção Geral do Ambiente Rua da Murgueira-Zambujal Apartado 7585 Alfragide 2720 Amadora
	Phone :	tel: +351-1-4728200 (ext 8256)
	Fax :	fax: +351-1-4728389
	E-mail :	e-mail: asr@dga.min-amb.pt
Ireland	Name :	Mrs Marie Mc Carthy
	Address :	Health and Safety Authority 10 Hogan Place Dublin 2
	Phone :	Ireland
	Fax :	tel: +353-1-6147060
	E-mail :	fax: +353-1-6620417 e-mail: mariec@hsa.ie
Italy	Name :	Mr Giuseppe Battaglino
	Address :	Ministry of Health Prevention Department Via della Sierra Nevada 60 00144 Roma Italy
	Phone :	+39-6-59944209
	Fax :	+39-6-59944249
	E-mail :	g.battaglino@.sanita.it

ANNEX 3

Minutes of the CLEEN stakeholdersmeeting (June 2001)



Directoraat Generaal Milieubeheer
Hoofdinspectie Milieuhygiëne
DGM/HIMH/HH

To : Participants Stakeholder Meeting CLEEN

From Marc Proost
Secretariat CLEEN

Telephone : +31-70-3391225
email marc.proost@minvrom.nl
Date : 10-07-2001

Author : Marc Proost

Subject : Minutes Stakeholder meeting Brussels 14
June 2001

Date : 14 June 2001, 10.30 - 14.00

Place : Brussels, Permanent Representation of the Netherlands

Participants : Mr. A. Berends (DG TAXUD), Mr. C. Bovenkerk
(Projectmanager)

EurOzone), Mr. M. Bus (Dutch Permanent Representation), Mr. P. Callaghan (DG ENV/CFC), Mr. J. Cornet (chairman), Mrs. K. Dimitriou (Hellenic Permanent Representation), Mr. J. Hupperetz (DG TAXUD), Mrs. U. Kowalski (DG ENTR/CADMIUM), Mr. F. van Nieuwenborg (projectmanager EuroCad), Mr. M. Proost (CLEEN secretariat).

1. Welcome

Mr. Joost Cornet welcomes all participants, and expresses his gratitude to Mr. Melchior Bus, for hosting the meeting at the premises of the Dutch Permanent Representation in Brussels. Mr. G. Zucht has announced not attend the meeting, and Mrs. A. Tsatsou-Dritsa will be represented by Mrs. Dimitriou. Mrs. L. Perenius (DG ENTR) will be supported by Mrs. Kowalski, who is a former participant of the network, now working for DG ENTR as a national expert.

Mr. Callaghan wants to add the EurOzone project to the agenda.

2. History of CLEEN and participation Candidate Countries

Since 1995 Chemicals Legislation has been enforced in the EU within certain projects. The main reasons were to enhance harmonisation of enforcement, and to enhance equal

conditions for citizens and companies in the EU. The first project dealt with the New Substances Legislation. It was called the NONS project. Centrally coordinated company visits were performed in nearly all EU member states including Norway, using a uniform guidance manual. The NONS project was followed by the SENSE (Solid enforcement of New Substances) and “Follow-up” SENSE project, which ended in May 1999.

In 1997 an enforcement project for another Regulation started. This project was named EUREX, and aimed at checking compliance with the Existing Substances Regulation.

During finalisation of the EUREX and the Sense Follow-up project in Dresden, May 1999, loss of enforcement skills was feared, and therefore it was decided to install a network of enforcers of Chemical Legislation. The main goal of this network would be the coordination of enforcement activities for Chemical Legislation. Actions such as prioritization of topics, dissemination of information, discussion with the EC on enforceability of legislation, were derived from this main goal.

The network was named CLEEN, the acronym for Chemical Legislation European Enforcement Network. CLEEN was officially installed during the Athens Conference, June 2000. There, agreement was reached on the scope (New- and Existing Substances Regulation, Import and Export, Limitation of Marketing and Use Directive, Biocides Directive, CFC Regulation, and Preparations Directive) and strategy, the action- and priority-plan, the installation of a permanent secretariat, involvement of Candidate Countries etc. The Athens Conference also marked the start of 2 new projects, namely for cadmium and ozone depleting substances (EuroCad and EurOzone respectively).

Actions of the secretariat so far have been the installation of a Website (www.cleen-europe.org), the organization of the upcoming CLEEN conference in Vienna, September 2001, the organization of this Stakeholder meeting with the Commission, invitation of the Candidate Countries (7 will participate in Vienna), drafting of a priority plan for 2002, etc.

3. Improvement co-operation with DG TAXUD

First an impression is given by Mr. Van Nieuwenborg of the co-operation in The Netherlands between the Environment and the Customs authorities. In The Netherlands both parties have signed a general agreement (or Covenant), giving Customs the possibility to enforce the national cadmium decree. In The Netherlands 2000 samples are taken yearly, of which 400 samples lead to infringements of the cadmium Decree.

Unlike the good co-operation in The Netherlands, in many other EU countries co-operation is difficult.

Mr. Hupperetz explains the activities of the Customs 2002 Program run by DG TAXUD. At this moment an ‘inventory of control areas’ is done, in order to bring together information on major controls to be applied by customs as a result of Community legislation. The inventory should address priority areas where co-operation between national Customs authorities and other governmental agencies can be improved. One of the possible parameters for prioritizing control areas will be risks related to public health and safety. After interservice consultation within the Commission this summer, the inventory will be reviewed by the Control Management Group, in which the national Custom authorities are represented. These representatives can set priorities on the basis of this inventory, after

which actions can be taken forward within the framework of the Customs 2002 program. (More information is available on the web-site:

http://europa.eu.int/comm/taxation_customs/information_notes/c2002)

CLEEN would want special attention to cadmium and ozone depleting substances on the inventory.

Separately, a project group has already been installed for 'product-safety' with the same goal, namely the improvement of the co-operation between national Customs authorities and Market Surveillance authorities. This working group will have results by the end of this year. CLEEN is very interested in these results.

DG TAXUD welcomes a closer co-operation with EurOzone and EuroCad.

CLEEN will inform DG TAXUD on the issues that are of priority for CLEEN and of the practical problems of enforcing EU Regulation. CLEEN will send a letter to DG TAXUD (attn of the Director), inviting TAXUD to give support to the CLEEN network. This offer applies to DG ENV and to DG ENTR.

The Permanent Representations of The Netherlands and Greece will be informed.

3b. Update EurOzone activities

The Commission is investigating the implementation of the CFC Regulation. A guidance will be given in order to improve the definitions of the Regulation. The UNEP Manual will also be used to amend the guidance document on enforcement of legislation on illegal trade of CFC.

4. CLEEN reaction on the White Paper on Chemicals

CLEEN is very pleased to see that the White Paper (COM (2001) 88 final) proposes to install a network of enforcers in order to improve harmonization of enforcement of Chemicals Legislation in the EU. The CLEEN secretariat is drafting a letter to DG ENV, to offer its expertise to the Commission to install such a proposed network. This meeting has been informed on this initiative. No further comments are made.

5. Discussion of the possibilities to comment on draft EC Legislation concerning its enforceability

In view of the increasing attention given to enforcement issues by the European Parliament, the publication by the Commission of Minimum Criteria for Inspections and other legislative proposals with regard to enforcement, CLEEN proposes to be involved in the drafting of legislative proposals in order to advise on enforcement issues. The current procedure, where national inspection authorities are informed by their Competent Authority Delegate, are insufficient in several Member States.

CLEEN indicates that it would like to be consulted by the Commission on a voluntary basis on enforcement issues with regard to drafting new legislative proposals. This request will be officially addressed to the Commission in a letter.

Actions

1. Drafting of minutes of Stakeholders meeting (action by CLEEN secretariat).
2. Drafting of a letter from CLEEN to the EC, inviting DG TAXUD to CLEEN (action CLEEN Secretariat)
3. Drafting of a letter from CLEEN to the EC, offering DG TAXUD, ENV and ENTR the possibility to involve CLEEN on a voluntary basis in drafting of legislative proposals with regard to its enforceability (action CLEEN Secretariat).

ANNEX 4

Letters of CLEEN to DG's of the European Commission on the White Paper

Directoraat Generaal Milieubeheer
Hoofdinspectie Milieuhygiëne

Mr. P. Hennessy, Director Directorate E, DG ENTR

CLEEN: Enforcement Network of European Chemical Legislation

Dear Mr Hennessy,

In February 2001, the European Commission (DG ENV) published the White Paper for a Strategy for a future Chemicals Policy. This White Paper recommends i.a. to create a network of the Member States and the Candidate Countries authorities responsible for enforcement to spread good practice and to highlight problems at Community level.

Since the early 90's European Chemical Legislation has been enforced in the European Union by the separate Member State authorities. As of 1995 the Member States authorities decided to execute joint enforcement projects. After 4 years of co-operation, the Member States decided in 1999 to install a network of enforcers of Chemical Legislation. This informal network, named CLEEN, the acronym for Chemical Legislation European Enforcement Network, has the aim to set up and co-ordinate enforcement projects. In these projects representatives of Environment, Customs and/or Enterprise have been involved. The scope of CLEEN also includes the cadmium policy area for which your Directorate is responsible.

In the annex more information on CLEEN is presented.

With this letter CLEEN proposes to use this existing network for the implementation of recommendation 10b of the White Paper. CLEEN is very much prepared to share their experiences and network facilities with the Commission.

CLEEN invites the Commission to start a dialogue on how to share the experiences of CLEEN with the Commission and the Member States in order to improve harmonised enforcement in the EU. This way CLEEN can serve as an enforcers network for the Commission.

When and if the Commission wants a dialogue with representatives of CLEEN this can be arranged.

Furthermore, on 14 June 2001 a 'Stakeholders' meeting took place in Brussels with representatives of DG ENTR, DG ENV and DG TAXUD and several Member States, to discuss the possibilities to promote enforcement for better compliance and to suggest improvements for the enforceability of Chemicals Legislation, and the possible role of CLEEN herein. The outcome gave good hope, and paved the way to achieving better enforcement and suggestions for better enforceable Chemical Legislation. It must be underlined clearly that CLEEN holds no political responsibility and merely serves as an advisory body. A copy of the minutes of the Stakeholdersmeeting is attached.

The way enforcement issues have been implemented in other areas might serve as an example as well. CLEEN offers to summarize the known examples and discuss them with the Commission and the relevant Competent Authorities.

We hereby also have the pleasure to invite a representative of your directorate to our second CLEEN Conference, which will be held in Vienna from 10-13 September 2001. A copy of the programme is attached.

With Kind Regards,
On behalf of CLEEN,

Mrs. Angeliki Tsatsou-Dritsa, Director
General Chemical State Laboratory, Greece

Signed

Mr. Gerhard Zucht,
Federal Institute for Occupational Safety and
Health, Notification unit, Germany

Signed

Mr. Joost Cornet,
Ministry of Environment, The Netherlands

Signed

cc:

Mr. A. Berends (DG TAXUD),

Mr. C. Bovenkerk (Projectmanager EurOzone, Ministry of Environment, The Netherlands),

Mr. M. Bus (Dutch Permanent Representation, Brussels),

Mr. P. Callaghan (DG ENV/CFC unit),

Mrs. K. Dimitriou (Hellenic Permanent Representation, Brussels),

Mr. J. Hupperetz (DG TAXUD),

Mrs. U. Kowalski (DG ENTR/CADMIUM unit),

Mr. F. van Nieuwenborg (projectmanager EuroCad, Ministry of Environment, The Netherlands),

Mr. R. Donkers (DG ENV),

Mrs. E. Hellsten (DG ENV),

Mr. R. Schulte-Braucks (DG ENTR).

Mr. T. Shears (DG ENV, IMPEL)

Directoraat Generaal Milieubeheer
Hoofdinspectie Milieuhygiëne

Mr J.F. Verstrynge, deputy Director General, DG ENV

CLEEN: Enforcement Network of European Chemical Legislation

Dear Mr Verstrynge,

In February 2001, the European Commission (DG ENV) published the White Paper for a Strategy for a future Chemicals Policy. This White Paper recommends i.a. to create a network of the Member States and the Candidate Countries authorities responsible for enforcement to spread good practice and to highlight problems at Community level.

Since the early 90's European Chemical Legislation has been enforced in the European Union by the separate Member State authorities. As of 1995 the Member States authorities decided to execute joint enforcement projects. After 4 years of co-operation, the Member States decided in 1999 to install a network of enforcers of Chemical Legislation. This informal network, named CLEEN, the acronym for Chemical Legislation European Enforcement Network, has the aim to set up and co-ordinate enforcement projects. In these projects representatives of Environment, Customs and/or Enterprise have been involved. In the annex more information on CLEEN is added.

With this letter CLEEN proposes to use this existing network for the implementation of recommendation 10b of the White Paper. CLEEN is very much prepared to share their experiences and network facilities with the Commission. The scope of CLEEN involves other policy areas like biocides, ozone depleting substances and cadmium as well.

CLEEN invites the Commission to start a dialogue on how to share the experiences of CLEEN with the Commission and the Member States in order to improve harmonised enforcement in the EU. This way CLEEN can serve as an enforcers network for the Commission.

When and if the Commission wants a dialogue with representatives of CLEEN this can be

arranged.

Furthermore, on 14 June 2001 a 'Stakeholders' meeting took place in Brussels with representatives of DG ENTR, DG ENV and DG TAXUD and several Member States, to discuss the possibilities to promote enforcement for better compliance and to suggest improvements for the enforceability of Chemicals Legislation, and the possible role of CLEEN herein. The outcome gave good hope, and paved the way to achieving better enforcement and suggestions for better enforceable Chemical Legislation. It must be underlined clearly that CLEEN holds no political responsibility and merely serves as an advisory body. A copy of the minutes of the Stakeholdersmeeting is attached.

The way enforcement issues have been implemented in other areas might serve as an example as well. CLEEN offers to summarize the known examples and discuss them with the Commission and the relevant Competent Authorities.

We hereby also have the pleasure to invite a representative of your directorate to our second CLEEN Conference, which will be held in Vienna from 10-13 September 2001. A copy of the programme is attached.

With Kind Regards,
On behalf of CLEEN,

Mrs. Angeliki Tsatsou-Dritsa, Director
General Chemical State Laboratory, Greece

Signed

Mr. Gerhard Zucht,
Federal Institute for Occupational Safety and
Health, Notification unit, Germany

Signed

Mr. Joost Cornet,
Ministry of Environment, The Netherlands

Signed

cc:

Mr. A. Berends (DG TAXUD),

Mr. C. Bovenkerk (Projectmanager EurOzone, Ministry of Environment, The Netherlands),

Mr. M. Bus (Dutch Permanent Representation, Brussels),

Mr. P. Callaghan (DG ENV/CFC unit),

Mrs. K. Dimitriou (Hellenic Permanent Representation, Brussels),

Mr. J. Hupperetz (DG TAXUD),

Mrs. U. Kowalski (DG ENTR/CADMIUM unit),

Mr. F. van Nieuwenborg (projectmanager EuroCad, Ministry of Environment, The Netherlands),

Mr. R. Donkers (DG ENV),

Mrs. E. Hellsten (DG ENV),

Mr. R. Schulte-Braucks (DG ENTR),

Mr. T. Shears (DG ENV, IMPEL)

Directoraat Generaal Milieubeheer
Hoofdinspectie Milieuhygiëne

Mr. A. Wiedow, Director Directorate B (Customs Policy),
DG TAXUD

CLEEN: Enforcement Network of European Chemical Legislation

Dear Mr Wiedow,

In February 2001, the European Commission (DG ENV) published the White Paper for a Strategy for a future Chemicals Policy. This White Paper recommends i.a. to create a network of the Member States and the Candidate Countries authorities responsible for enforcement to spread good practice and to highlight problems at Community level.

Since the early 90's European Chemical Legislation has been enforced in the European Union by the separate Member State authorities. As of 1995 the Member States authorities decided to execute joint enforcement projects. After 4 years of co-operation, the Member States decided in 1999 to install a network of enforcers of Chemical Legislation. This informal network, named CLEEN, the acronym for Chemical Legislation European Enforcement Network, has the aim to set up and co-ordinate enforcement projects.

Your directorate is involved in CLEEN too, since the enforcement of the Ozone Depleting Substance and Cadmium Legislation in the EU can be improved by cooperation with Customs authorities. Other representatives in CLEEN are of Environment and Enterprise authorities. In the annex more information on CLEEN is added.

With this letter CLEEN proposes to use this existing network for the implementation of recommendation 10b of the White Paper. CLEEN is very much prepared to share their experiences and network facilities with the Commission.

CLEEN invites the Commission to start a dialogue on how to share the experiences of CLEEN with the Commission and the Member States in order to improve harmonised enforcement in the EU. This way CLEEN can serve as an enforcers network for the Commission. The scope of CLEEN includes the cadmium, ozone depleting substances,

biocides and chemicals policy area's.

When and if the Commission wants a dialogue with representatives of CLEEN this can be arranged.

Furthermore, on 14 June 2001 a 'Stakeholders' meeting took place in Brussels with representatives of DG ENTR, DG ENV and DG TAXUD and several Member States, to discuss the possibilities to promote enforcement for better compliance and to suggest improvements for the enforceability of Chemicals Legislation, and the possible role of CLEEN herein. The outcome gave good hope, and paved the way to achieving better enforcement and suggestions for better enforceable Chemical Legislation.

One of the agreements made at this meeting was that CLEEN would inform DG TAXUD on the issues that are of priority for CLEEN and of the practical problems of enforcing EU Regulation. These priorities can serve as an input for the Customs 2002 Program run by your Directorate. At the moment your Directorate is preparing an 'inventory of control areas', in order to bring together information on major controls to be applied by customs as a result of Community legislation. The inventory should address priority areas where co-operation between national Customs authorities and other governmental agencies can be improved.

It must be underlined clearly that CLEEN holds no political responsibility and merely serves as an advisory body. A copy of the minutes of the Stakeholdersmeeting is attached.

The way enforcement issues have been implemented in other areas might serve as an example as well. CLEEN offers to summarize the known examples and discuss them with the Commission and the relevant Competent Authorities.

We hereby also have the pleasure to invite a representative of your directorate to our second CLEEN Conference, which will be held in Vienna from 10-13 September 2001. A copy of the programme is attached.

With Kind Regards,
On behalf of CLEEN,

Mrs. Angeliki Tsatsou-Dritsa, Director
General Chemical State Laboratory, Greece

Signed

Mr. Gerhard Zucht,
Federal Institute for Occupational Safety and
Health, Notification unit, Germany

Signed

Mr. Joost Cornet,
Ministry of Environment, The Netherlands

Signed

cc:

Mr. A. Berends (DG TAXUD),

Mr. C. Bovenkerk (Projectmanager EurOzone, Ministry of Environment, The Netherlands),

Mr. M. Bus (Dutch Permanent Representation, Brussels),

Mr. P. Callaghan (DG ENV/CFC unit),
Mrs. K. Dimitriou (Hellenic Permanent Representation, Brussels),
Mr. J. Hupperetz (DG TAXUD),
Mrs. U. Kowalski (DG ENTR/CADMIUM unit),
Mr. F. van Nieuwenborg (projectmanager EuroCad, Ministry of Environment, The Netherlands),
Mr. R. Donkers (DG ENV),
Mrs. E. Hellsten (DG ENV),
Mr. R. Schulte-Braucks (DG ENTR),
Mr. T. Shears (DG ENV, IMPEL)

ANNEX 5

Alert system format and EURASCP format

1. Alert system format

<u>ALERT INFORMATION</u>
Directive 76/769/EEC "Restrictions on the marketing and use of certain dangerous substances and preparations"
GENERAL INFORMATION
Notifying country :
Date of notification :
IDENTIFICATION OF THE PRODUCT
Product name :
Tariff code :
Model number :
Material :
Description and dimensions of product and its packaging :
Photograph or drawing of product :
MANUFACTURER
Name and address of the manufacturer :
Name and address of the exporter :
Country of origin of product :
IMPORTERS AND OTHERS
Full name & address of importers or authorized representatives :
Full name & address of retailers or authorized representatives :
TEST RESULTS
Standards or regulations applicable :
Analysed substance and its content in the product :
Method of analysis used :
Whole amount of the rejected products :
MEASURES ADOPTED
Voluntary measures :
Compulsory measures :
Scope :
Date of entry into force :
Duration :
OTHER INFORMATION
Other information if needed from :
Person to contact :
Is this information confidential? :

2. EURASCP alert system format

SPANISH DRAFT PROPOSAL

"EUROPEAN RAPID ALERT SYSTEM FOR CHEMICAL PRODUCTS, EURASCP"

Introduction.

To establish a European Rapid Alert System for Chemical Products (**EURASCP**) as a rapid information exchange is not an easy process. It is required to settle down certain basic premises to start with. Initially, **CLEEN** (Chemical Legislation European Enforcement Network) **Permanent Secretariat (CLEEN PS)** should operate EURASCP to rapidly inform Member States, MSs, (MSs, include EU countries and Iceland, Liechtenstein and Norway according to **EEA**, European Economic Area Agreement) about problems or risks concerning a chemical product which does not meet chemical legislation so as to pose a risk to human health (workers and consumers) and the environment. The scheme for EURASCP proposed here is based on the one already used in the EEA as a Rapid Alert System for Foodstuffs (RASFF).

On the other hand, Spain has been running since 1998 (after participating in the SENSE project) a Rapid Alert System on Chemical Products under the Human Health point of view. Since then experience has been gained and this could help in the development of the EURASCP.

Aims. **A)** To protect human health and the environment (**HH + ENV**) against any danger arising from the use of chemical products, and **B)** to exchange rapidly information between MSs and the CLEEN PS.

Objective. The principal objective is to prevent the placement on or the recall from the community market chemical products, which pose a serious risk to HH + ENV.

Scope. The System should be limited to those chemical products, which pose a risk to HH + ENV that goes beyond the territory of a single MS.

Legal Basis. The legal basis for EURASCP has to be carefully established after a running period (one year perhaps) of the MSs - CLEEN PS's System. Afterwards, under our opinion DG SANCO must be the Unit/ Institution mainly involved in the System.

Under **Annex I** a detailed procedure for the application of the System for rapid exchange of information provided for in specific articles has to be prepared after the experience gained running EURASCP.

Notification Criteria: The basic criteria for notification to CLEEN PS by a MS are knowledge or suspicion that

- **A)** A chemical product poses a serious risk to HH + ENV safety, and
- **B)** The chemical product may be on the market in another MS.

It is impossible to be precise about what constitutes a serious risk. Own judgment must be used in each case.

<ul style="list-style-type: none"> •Serious risk: <ul style="list-style-type: none"> •Health or environmental harm, a chemical produces an environmental or health problem that is detected at any country. The situation requires an immediate action, because its seriousness, frequency, or high number of involved countries. •Health or environmental risk: certain chemical doesn't comply the legal regulations, and the situation requires an immediate action because: <ol style="list-style-type: none"> 1. Product's toxicological or ecotoxicological classification as a very dangerous product (at least, carcinogenic categories 1 and 2, very toxic ...). 2. High production volume of the chemical. 3. The chemical product is widely used. 4. Others circumstances (conveniently justified by the MS that notifies the problem).

MSs should ensure that there are well-developed systems at national level so that their national, regional or local authorities are aware of their wider responsibilities and of the action they should take to inform others in the event that a potential problem comes to light in their area.

Notification by a MS to the CLEEN PS. Where a MS obtains information, which indicates that, there may be a wider problem that goes beyond its own territory, it shall take immediate steps to inform CLEEN PS (*Annex II*: List of CLEEN PS focal points, not public domain).

- 1) Information shall be communicated to CLEEN PS by the official nation focal point (FP) listed as *Annex III*: List of EEA countries FPs (not public domain).
- 2) Information shall be communicated on the official notification form (*the draft format already prepared by Finland and Greece*), it can be under *Annex IV*.
- 3) Information must be as complete as possible. In particular, those questions on the notification form marked with an asterisk (*) must be answered. Where information is not available, this should be indicated. However, the lack of complete information should not prevent the transmission of an urgent notification. Notifications with a lower urgency should be as complete as possible before they are forwarded.

The notification form (*Annex IV*) has to be very precisely worked out with different blocks and the corresponding numeric entries, may be as follows:

Annex IV:

EURASCP Notification Number:		
GENERAL INFORMATION:		
01.	NOTIFYING COUNTRY:	
02.	DATE OF NOTIFICATION:	
PRODUCT:		
03	USE CATEGORY OF THE PRODUCT (may be according to IUCLID definitions or others):	
04(*)	PRODUCT NAME / TRADE NAME:	
05a(*)	PRODUCT IDENTIFICATION NUMBER:	

	N° CAS: N° EINECS: N° ELINCS: TARIFF CODE: OTHERS:.
05b(*)	COMPONENTS OF THE PRODUCT: (Be aware of known or unknown components; be aware of the product being a substance or a preparation; be aware on the chemistry family, etc.).
05c(*)	PHYSICAL STATE OF THE PRODUCT:
06(*)	IDENTIFICATION OF THE LOT (if available)
07(*)	MINIMUM DURABILITY DATE OR BEST BEFORE
08a(*)	DESCRIPTION OF THE PRODUCT:
08b(*)	PACKAGING OF THE PRODUCT:
08c(*)	LABELLING OF THE PRODUCT:

ORIGIN:	
09a(*)	NAME OF THE PRODUCER (FULL ADDRESS):
09b(*)	NAME OF THE IMPORTER (FULL ADDRESS):
09c(*)	NAME OF THE DISTRIBUTOR (FULL ADDRESS):
09d(*)	NAME OF THE FORMULATOR (FULL ADDRESS):
09e(*)	NAME OF THE PACKAGER (FULL ADDRESS):
10(*)	PERSON TO CONTACT (FULL ADDRESS):
11(*)	COUNTRY OF ORIGIN (FULL ADDRESS):
12a(*)	DISTRIBUTION TO MEMBER STATES:
12b(*)	EXPORTED TO THIRD COUNTRIES:
RISK/ DAMAGE IDENTIFICATION:	
13(*)	(The more relevant data on the matter as well as the specific legislation broken has to be mentioned in this part. It has to be carried out carefully and precisely under <u><i>Annex VI: Category of danger</i></u> , for example).
ANALYTICAL DATA OF THE PRODUCT::	
14a(*)	DATE OF ANALYSIS:
14b(*)	METHODS/ TECHNIQUES USED UNDER GLP: IR, GC, HLGC, SAA, NMR, X-Ray, Mass Spectroscopy, Qualitative and Quantitative determinations, etc.
14c(*)	NAME AND ADDRESS OF THE LABORATORY:
LEGISLATION::	

15(*)	EU LEGISLATION APPLIED:
16(*)	NATIONAL (MS) LEGISLATION APPLIED:
17(*)	INTERNATIONAL LEGISLATION APPLIED:
OTHER INFORMATION:	
18(*)	MINISTRY:
19(*)	FOCAL POINT (PERSON TO CONTACT):
20(*)	CONFIDENTIALITY (YES OR NOT):
21(*)-	IF YES, WHY:

Use of the EURASCP Notification form (Annex IV):

- ✓ *General remark: Notifications are the subject of several retransmissions and therefore the writing used should be clear and in sufficient large size, so that the notifications remain readable (preferably majuscule characters).*
- ✓ *Under point 4 of the notification form, the name of the product shall be mentioned as precisely as possible.*
- ✓ *Under point 12a and/or 12b the distribution to other countries should be indicated. This point is very important, to be able to see if it is necessary to react.*
- ✓ *Under point 13 of the notification form, in addition to the nature of danger the category of danger should be mentioned (that is to say Annex VI: category of danger).*
- ✓ *Under point 14b or 14c, if possible a copy of the laboratory report should be attached. If available, quantitative determination should be performed.*
- ✓ *Under points 15 and 16 national and EU legislation and limits should be indicated, respectively. The same to be applied to point 17.*
- ✓ *Wherever address is mentioned it is understood complete address (telephone, fax, e-mail included).*

Notification by CLEEN PS to the Member States (MSs). CLEEN PS will notify MSs of any information, which fulfill the criteria mentioned above relating to chemical products which might endanger HH + ENV. This information may have been received from MSs, Third Countries or any other source.

Previously, CLEEN PS will evaluate the seriousness of the information, and decide on the adequate action or inform the MSs

Types of grading. The System may use the following types of grading:

- **Alert Notification: A)** A violative chemical product which may cause serious HH + ENV or death, or **B)** a violative chemical product which may cause temporary adverse HH + ENV consequences.
- **Non-Alert Notification: A)** A chemical product, which is unlikely to cause serious HH + ENV consequences, or **B)** A chemical product blocked at the border for legal reasons. (A system or ideas to act like this must be developed or improved if it does already exist).

Certain examples of situations in which the different categories for Alert Notification and Non-Alert Notification have to be included here.

Types of Notification:

- **Original Notification:** A notification communicated within the EURASCP system referring to a new case in which a product endangers HH + ENV.
- **Additional Notification:** A notification relating to a notification issued already, but which differs from the original as regarding to lot numbers, country of origin, or producer/ importer/etc. Essential is that the type of chemical product and the source of danger remains the same.
- **Additional Information:** Information, which is gathered after the original notification had been transmitted, and which might be of interest to the national control authorities.

Action to be taken:

- 1) **Notifying Country:** Gather requested information in particular information concerning: danger and possible distribution to other MSs and Third Countries. (List of customers).
- 2) **Country of Production (EEA):** Visit producer and perform a complete inspection, and gather information concerning distribution to other MSs and Third Countries. (List of customers).
- 3) **Country of Import:** Visit Importer and perform an inspection and gather information concerning possible distribution to other MSs. (List of customers).

MSs directly involved shall report to the CLEEN PS about the outcome of the findings.

The country where the chemical product was produced (if within EEA) or the country in which the chemical product entered the EEA shall send a final report to the CLEEN PS and send a copy to the notifying country.

The CLEEN PS will decide on the adequate action, on the basis of the information supplied, such as, visits to the production plant to complete the information, safeguard clauses to third countries, withdrawal from lists of approved establishments, or advise the European Commission about the needs of appropriate new or modified legislation.

Follow-up Reaction: All MSs are obliged within the compromise (future legislation, Directive) adopted via CLEEN PS to inform the CLEEN PS (the Commission Services, under legal conditions) of the action taken.

Within the context described in Annex I, this obligation relates only to Alert notifications. For Non-Alert Notifications MSs have to transmit a follow-up reaction, only if an action has been taken (it will be precisely described under an "article" of the Directive to come).

Information shall be communicated on the proposed EURASCP Follow-up notification form (see *Annex V*) as follows:

Annex V:**EURASCP Follow up Reaction form:.....**

01.-	REACTING COUNTRY:
02.-	DATE OR REACTION:
03(*).-	NUMBER OF NOTIFICATION:
04(*).-	VOLUNTARY MEASURES:
05(*).-	COMPULSORY MEASURES:
06.-	SCOPE:
07.-	DATE OF ENTRY INTO FORCE:
08.-	DURATION:
09.-	OTHER INFORMATION:
10.-	PERSON TO CONTACT (MS FOCAL POINT):

Out of Hours Service: Because emergencies may arise out of normal working hours, MSs should ensure that there are well-developed systems at national level so that their national, regional or local authorities may be contacted in very urgent cases. Any change in that system should immediately be reported to all national, regional or local authorities within that Member State (MS).

Changes at national level shall be immediately transmitted to the CLEEN PS, who will forward them to the other MSs.

Press release: The Media is a good source to rapidly inform the HH + ENV of a risk to the safety of that HH + ENV, however the information to the Media should be complete and correct to prevent unnecessary scare or panic under HH + ENV.

This tool should only be used for the benefit of HH + ENV.

Chemical companies recalls: Chemical companies should be encouraged to inform the national authorities of any voluntary chemical product recall they intend to make, and national authorities should assist chemical companies in what would be the best way to perform a product recall. Therefore, contact with Chemical Companies Associations is recommended.

Annex VI, category of danger: Finally, "Annex VI: category of danger" corresponds to point 13 of the EURASCP Notification form Annex IV. Annex VI structure needs a careful thinking and any proposal or suggestions are welcome.

Summary of annexes: The proposed annexes have to be developed and some of them like Annex I, and Annex VI has not been done at all in this document. May be some more concepts should be added. Then, the list of Annexes is the following:

Annex I: Legal basis statement to develop the System (EURASCP).

Annex II: List of CLEEN PS focal points (FPs), not public domain.

Annex III: List of EEA countries focal points (FPs), not public domain.

Annex IV: EURASCP Notification form.

Annex V: EURASCP Follow-up Reaction form.

Annex VI: Category of danger (point 13 of Annex IV).

ANNEX 6

Proposal communication project for companies in countries from the Far East

ANNEX 7

Report form EuroCad company inspections

Date/reference number:
Report form inspections EuroCad (fill in one report form per company, or 1 report form per controlled product)
SECTION 1: GENERAL INFORMATION
1.1 Country name:
1.2 Name inspectorate:
1.3 Address:
1.4 Telephone:
1.5 Fax:
1.6 E-mail:
1.7 Date of the visit:
1.8 Inspection announced? Yes/No
SECTION 2: COMPANY INFORMATION
2.1 Name or your reference number (in case of confidentiality) of the inspected company:
2.2 Type of company: (only one answer possible): <input type="checkbox"/> producer <input type="checkbox"/> importer/trader (importing from within the EU) <input type="checkbox"/> importer/trader (importing from outside the EU) <input type="checkbox"/> importer/trader and producer <input type="checkbox"/> other, namely:....
2.3 Impression of the internal control and quality of company records regarding cadmium (only one answer possible): <input type="checkbox"/> adequate <input type="checkbox"/> could be better <input type="checkbox"/> poor
2.4 Is the company informed on Cadmium regulations? <input type="checkbox"/> yes <input type="checkbox"/> poor <input type="checkbox"/> not at all
SECTION 3: INFORMATION ON CONTROLLED PRODUCT(S)
3.1 Category of the product and product name (several answers are possible), and tarifcodes of Customs
3.2 Additional information on the product:
3.3 Type of plastic (only one answer possible): <input type="checkbox"/> PVC <input type="checkbox"/> PP <input type="checkbox"/>

Date/reference number:	
Report form inspections EuroCad	
(fill in one report form per company, or 1 report form per controlled product)	
3.4 'Status' of the product (more answers are possible):	
<input type="checkbox"/> produced/imported from outside the EU, final destination outside the EU <input type="checkbox"/> produced/imported from outside the EU, final destination own country; <input type="checkbox"/> produced/imported from outside the EU, final destination other EU country; <input type="checkbox"/> produced/imported from other EU country; final destination own country; <input type="checkbox"/> produced/imported from other EU country, final destination inside the EU; <input type="checkbox"/> produced/imported from EU country, final destination outside the EU; <input type="checkbox"/> produced in own country; <input type="checkbox"/> exported to a country outside EU. <input type="checkbox"/> other:	
3.5 Country of production:	
<input type="checkbox"/> EU country <input type="checkbox"/> non EU country, namely:	
3.6 Name importer and importing EU-country :	
3.7 Name manufacturer and manufacturing country:	
3.8 (Estimated) Amount of the product identified in own country: kilogram/..... pieces/.....others	
SECTION 4: SAMPLING AND ANALYSING RESULTS	
4.1 Number of samples taken:	
4.2 Sample was taken by:	
<input type="checkbox"/> custom; <input type="checkbox"/> inspectorate.	
4.3 Used method (more answers are possible when you have a second report):	
<input type="checkbox"/> XRF <input type="checkbox"/> INAA <input type="checkbox"/> ENV 1122 <input type="checkbox"/> other, namely:	
4.4 Results of the analysis	
<input type="checkbox"/> In case of a product existing of one analysed part, results of the analyses: mg Cadmium/kg . <input type="checkbox"/> In case of a product existing of more than one analysed part (composed product): fill in the scheme below:	
Part of the product:	Result (mg/kg):
Part of the product:	Result (mg/kg):
Part of the product:	Result (mg/kg):
Part of the product:	Result (mg/kg):
SECTION 5: FOLLOW UP ACTIONS	

Date/reference number:
Report form inspections EuroCad (fill in one report form per company, or 1 report form per controlled product)
5.1 Products found above standard have been: (only one answer possible) <input type="checkbox"/> send back to country of origin (rejected); <input type="checkbox"/> considered as (hazardous) waste/destroyed; <input type="checkbox"/> replace the parts with too much Cadmium <input type="checkbox"/> sell it outside the EER <input type="checkbox"/> other, namely:
5.2 The following actions have been undertaken: (only one answer possible) <input type="checkbox"/> no action; <input type="checkbox"/> warning letter; <input type="checkbox"/> administrative sanction <input type="checkbox"/> penalty <input type="checkbox"/> others
SECTION 6: ADDITIONAL INFORMATION
REPORTING
Please report the results to the EuroCad project secretariat