

European Union Network for  
the Implementation and Enforcement  
of Environmental Law

**IMPEL Dialogue Project 2004/2005**  
**“Informal resolution of environmental conflicts by  
neighbourhood dialogue”**

**Final report**

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The European Union Network for the Implementation and Enforcement of Environmental Law is an informal network of the environmental authorities of EU Member States, acceding and candidate countries of the European Union and Norway. The European Commission is also a member of IMPEL and shares the chairmanship of its meetings.

The network is commonly known as the IMPEL Network

The expertise and experience of the participants within IMPEL make the network uniquely qualified to work on certain of the technical and regulatory aspects of EU environmental legislation. The Network's objective is to create the necessary impetus in the European Community to make progress on ensuring a more effective application of environmental legislation. It promotes the exchange of information and experience and the development of greater consistency of approach in the implementation, application and enforcement of environmental legislation, with special emphasis on Community environmental legislation. It provides a framework for policy makers, environmental inspectors and enforcement officers to exchange ideas, and encourages the development of enforcement structures and best practices.

Information on the IMPEL Network is also available through its web site at:  
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<p><b>Title report</b> <i>Informal resolution of environmental conflicts by neighbourhood dialogue</i></p>	<p>Number report: 2005/5</p>
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<p><b>The project</b> The focus of the project was on existing sites with neighbourhood complaints where a dialogue process was used as a voluntary instrument to try and resolve the conflict. 30 participants of 17 IMPEL member states discussed several case studies and exchanged their experiences of using various approaches of alternative dispute resolution (ADR) such as “Dialogues” and “Round Tables”, “Mediation” or “Mediation by expert consultation”. Two conferences were held in November 2004 and May/June 2005 in Hanover, Germany. The discussions covered application fields, essential framework conditions, chances, best practice proceedings, advantages, risks, limits and involvement of authorities.</p> <p><b>The main results (see also brochure: “Solving environmental conflicts by dialogue”, annex 8)</b> Dialogues and their results have to comply with the law. Legislation sets the framework but also the possibilities for discretion and for dialogue. Dialogues support conflict resolution between companies and neighbours. They have proven to handle and solve certain neighbourhood conflicts more effectively and efficiently than a traditional approach of enforcing regulations and give authorities a systematic and structured approach to manage communication and conflict resolution between neighbours and sites. Before initiating a dialogue process chances and risks should be assessed. The design of a neighbourhood dialogue should always be case specific – responding to the needs of the specific conflict situation. Dialogues cannot replace the usual tasks and responsibilities of inspection authorities nor do they substitute the law, but they can complement them. If there is a need for immediate action (e.g. to prevent significant health and environmental risks) or if an important party is refusing to participate in or misusing a dialogue process (e.g. to gain time) a different approach will be needed. This is when the authority must use its traditional instruments to regulate the site (e.g. supervising measures, legal constraints or judicial measures). Dialogues can create win-win situations e.g. by avoiding the need for a judicial decision where the legal position is unclear. Dialogues allow discretion to be used to agree on research projects or to develop and implement new standards to get more improvement than can be required by legislation. In particular cases and depending on national regulatory systems dialogue results can also be integrated into the permit or fixed on a voluntary basis by private or public-private contracts to ensure their binding character. If all parties agree on a compromise, this may reduce time, costs and risks for all.</p> <p><b>Final recommendations</b> The participants recommend to IMPEL supporting the further application of dialogue processes as voluntary instruments in the implementation and enforcement of environmental law. In particular they recommend</p> <ul style="list-style-type: none"> <li>– using dialogue as an option within complaint procedures</li> <li>– using dialogue before permit procedures (e.g. within IPPC permits)</li> <li>– encouraging companies to use the dialogue process as part of operating their site.</li> </ul>	
<p><b>Disclaimer</b> The report on “Informal resolution of environmental conflicts by neighbourhood dialogue” is the result of a project within the IMPEL Network. The content does not necessarily represent the view of the national administrations or the Commission.</p>	



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## 0 SUMMARY

### **The project**

30 representatives of 17 IMPEL member states participated in the project, which started in June 2004. Two conferences were held in November 2004 and May/June 2005 in Hanover, Germany. The focus of the project was on existing sites with neighbourhood complaints where a dialogue process was used as a voluntary instrument to try and resolve the conflict. Neighbourhood complaints and conflicts often occur near sites such as industrial production facilities, waste management sites and quarries because of their emissions or potential dangers including health risks. Sites built near inhabited areas or that have become surrounded by residential areas are especially affected. Conflicts can focus on concerns about odours, noise, air pollution, accidents, operation disorders or new permit conditions and procedures.

The participants in the project discussed several case studies and exchanged their experiences of using various dialogue approaches, inter alia “Dialogues” and “Round Tables”, “Mediation” or “Mediation by expert consultation”. These approaches of alternative dispute resolution (ADR) differ by the initiator, the facilitator, the method or their objectives. The discussions covered application fields, essential framework conditions, chances, best practice proceedings, advantages, risks, limits and involvement of authorities.

### **The main results** (see also brochure: “Solving environmental conflicts by dialogue”, annex 8)

Dialogues and their results have to comply with the law. Legislation sets the framework but also the possibilities for discretion and for dialogue. Before initiating a dialogue process chances and risks should be assessed. The design of a neighbourhood dialogue should always be case specific – responding to the needs of the specific conflict situation.

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

Dialogues cannot replace the usual tasks and responsibilities of inspection authorities nor do they substitute the law, but they can complement them. If there is a need for immediate action (e.g. to prevent significant health and environmental risks) or if an important party is refusing to participate in or misusing a dialogue process (e.g. to gain time) a different approach will be needed. This is when the authority must use its traditional instruments to regulate the site (e.g. supervising measures, legal constraints or judicial measures).

Dialogues can create win-win situations e.g. by avoiding the need for a judicial decision where the legal position is unclear. Dialogues allow discretion to be used to agree on research projects or to develop and implement new standards to get more improvement than can be required by legislation. In particular cases and depending on national regulatory systems dialogue results can also be integrated into the permit or fixed on a voluntary basis by private or public-private contracts to ensure their binding character. If all parties agree on a compromise, this may reduce time, costs and risks for all.

### **Final recommendations**

The participants recommend to IMPEL supporting the further application of dialogue processes as voluntary instruments in the implementation and enforcement of environmental law. In particular they recommend

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

## **1 – INTRODUCTION AND PROCEEDING**

### **1.1 Neighbourhood dialogues in Lower Saxony, Germany**

Since 1995 the Department of Labour and Environmental Inspection of Hanover (Lower Saxony, Germany - Staatliches Gewerbeaufsichtsamt Hannover) has experienced with two industrial sites how a continued neighbourhood dialogue between a company and its neighbours can result in solving conflicts more efficiently, more sustainably and can build better relationships between all affected parties (company, residents, authorities, others).

This experience was confirmed by a two-year pilot project (2001 – 2003) with small and medium sized enterprises (SME), which involved two more inspection departments of Lower Saxony and the Chambers of Skilled Crafts and of Industry and Commerce in the Hanover region. A consultant pool was established in 2003 to disseminate the results and to initiate and accompany more neighbourhood dialogue projects in Lower Saxony.

The experiences with and the results of the neighbourhood dialogue project of Lower Saxony were presented at the “IMPEL at work Conference” in Maastricht (October 2003). The IMPEL project “Informal resolution of environmental conflict by neighbourhood dialogue” was adopted by the IMPEL plenary meeting in Dublin in June 2004.

### **1.2 Project aims and objectives**

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

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

The project was aimed at

- Sharing experience, exchanging practical information and gaining comprehensive insight into how IMPEL member states proceed in dealing with and settling neighbourhood conflicts.
- Compiling examples for best practice, key factors and essential framework conditions which are crucial in order to successfully mediate between conflicting parties.
- Providing recommendations on how to effectively implement informal strategies to settle conflicts via dialogue - also with respect to how experience can be transferred within the IMPEL member states.
- If possible, developing a concept for a follow-up project providing recommendations on how to test more efficient approaches to settling conflicts (Initial Projects) which can be tried out by IMPEL member states interested in settling e.g. site conflicts which have gone unresolved for a long time.

The project objectives were met as documented in this final report, the dialogue brochure (annex 8) and the development of a ToR Sheet for a dialogue follow-up project.

### 1.3 Project activities and products

Main project activities and products were:

- a. **Invitation and registration** of 30 participants (from 17 IMPEL member states), invitation letters with preparatory documents for the 1st project meeting (June – November 2004)
- b. Sending out a **questionnaire** to all participants to prepare the 1st project meeting about legal and informal conflict resolution experience, techniques and best-practice examples. Evaluation and synopsis of the questionnaire with 24 answers from 17 countries (short version, long version, presentation at the 1st project meeting) (July – November 2004)  
see annex 2: Evaluation of the questionnaire - short version  
see annex 3: Best-practice examples
- c. Internal project **website** for participants with all the project teams' and the participants' documents (since November 2005)
- d. **1st project meeting 14-16 November 2004**, Hanover, Germany with 30 participants with presentations of successful case studies from different IMPEL member states, documentation  
see annex 1: Project presentations
- e. **Working groups (by email)** about how to integrate and improve authorities' work to handle complaints and solve environmental conflicts by dialogue and about how to encourage companies to talk to and to inform their neighbours (February – April 2005)  
see annex 4,6: Templates for collecting best-practice examples and unresolved conflicts
- f. Collecting further **case studies** about best-practice examples, proceedings and also examples of unresolved neighbourhood conflicts (by developing and agreeing on templates which were sent out to the participants before the second conference meeting , February – April 2005)  
see annex 3: Best-practice examples  
see annex 5: Unresolved conflicts
- g. **2nd project meeting 30 may – 1 June 2005** in Hanover, Germany  
see annex 1: Project presentations
- h. **Agreeing** on a short **dialogue brochure** "Solving environmental conflicts by dialogue" to communicate the project results and explain the background and usefulness of dialogues to authorities (June – September 2005)
- i. **Final Report** (September 2005).

Essential results are documented in a short dialogue brochure "Solving environmental conflicts by dialogue" and this final report.

## 2 – DEALING WITH NEIGHBOURHOOD CONFLICTS BY DIALOGUE

### 2.1 Neighbourhood conflict management - experiences from IMPEL member states

Neighbourhood conflicts and complaints are common in all IMPEL member states. A questionnaire sent out to all participants in the project was answered by 24 participants from 17 countries. This evaluation (see annex 2) showed that most of the participating countries have experience with dialogue approaches.

*Special experience* was discovered for:

- Austria: Formal possibility to try mediation before awarding permit
- France: Informal committees for information for nuclear energy sites, waste management sites and Seveso II installations
- Germany: Facilitation, dialogue and mediation projects
- The Netherlands: Facilitation, dialogue and mediation projects
- UK: Facilitation, dialogue, mediation and evaluation projects

The survey discovered that a direct communication between neighbours and a company often fails before the authority is contacted. Also the competent authority is often unknown to residents so that other institutions or people are addressed by residents (e.g. politicians, police,...). Some countries have installed specific complaint management procedures<sup>1</sup>, e.g. Belgium/Flanders, Italy/Tuscany, Ireland, Sweden. These ensure that the competent authority is informed early about conflict issues and can intervene at an early stage of conflict, e.g. by encouraging direct communication and checking the environmental performance.

### 2.2 Why and how dialogues solve neighbourhood conflicts

Environmental conflicts often have a lot of *different stakeholders* involved: dialogues are able to include these different individuals, groups and institutions, to make each stakeholder's role transparent.

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

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

Dialogues support additional access to information and participation of the public in environmental issues. It therefore promotes the aims of the Aarhus convention<sup>2</sup>.

The project participants covered further aspects of why dialogues are suitable instruments for authorities to manage changing societal perceptions and expectations concerning their work:

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<sup>1</sup> See annex 2, section A or [www.epa.ie](http://www.epa.ie), Lodging a complaint

<sup>2</sup> The Aarhus convention was adopted at the 4<sup>th</sup> UNECE Conference in Aarhus, Denmark, and came into force on 30<sup>th</sup> October 2001. During 2005 it will be ratified by 35 member states.

- Societal expectations have changed: people are more self-confident, use their information rights and demand detailed information and reasons about authorities' and companies' decisions and their backgrounds.
- New information and participatory rights (Aarhus Convention, EIA, SEA, others like EMAS) express the need and shift towards more transparent and participatory decision making processes.
- In a dialogue the competent authority is not always perceived as a neutral facilitator, but sometimes as an interested party. Authorities' roles and tasks become more transparent within dialogues.
- Authorities' reputation may be damaged if they are the focus of public and media criticism and cannot explain their role, activity and decision making transparently.
- Traditional approaches often are solely regulatory and inspection approaches and don't address the affected people.
- The necessity of open communication and information via public and the media demand changed attitudes among staff and management of authorities.

(see also section 3.5 “The role of authorities”)

### **2.3 Dialogues in compliance with the law**

As the fundamental precondition to neighbourhood dialogue, participants stated that dialogues and their results have to comply with the law. Legislation sets the framework but also the possibilities for discretion and for dialogue.

If this precondition is met, dialogue supports conflict resolution between companies and neighbours. They have proven to handle and solve certain neighbourhood conflicts more effectively and efficiently than a traditional approach of enforcing regulations. It gives authorities a systematic and structured approach to manage communication and conflict resolution between neighbours and sites. Before initiating a dialogue process the chances and risks should be assessed (see section 3.1 “Advantages” and 3.2 “Assessing uncertainties, risks and limits”).

Dialogues cannot substitute the law nor replace the usual tasks and responsibilities of inspection authorities, but they can complement them.

Dialogues can create win-win situations e.g. by avoiding the need for a judicial decision where the legal position is unclear. Dialogues also allow discretion to be used to agree on research projects or to develop and implement new standards to get more improvement than can be required by legislation.

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

However, if there is a need for immediate action (e.g. to prevent significant health and environmental risks) or if an important party is refusing to participate in or misusing a dialogue process (e.g. to gain time) a different approach will be needed. This is when the authority

must use their traditional instruments to regulate the site (e.g. supervising measures, legal constraints or judicial measures).

## 2.4 Case studies

Case studies were collected during the project:

- By a questionnaire
- By a template for collecting best-practice examples (see annex 4)
- By a template for collecting unresolved conflicts (see annex 6)

Presentations about case studies were held during the two project meetings (see annex 1).

Annex 3 is an overview of all best-practice examples collected during the project. An overview by types of dialogues is part of the next section 2.5. Annex 5 covers unresolved case studies (partly anonymously).

## 2.5 Different dialogue approaches

Various types of dialogue processes exist. They can differ in

- the initiator (e.g. company, authority, courts, local/regional administration, politicians, NGOs and interest groups),
- the facilitator (representative of the initiator or independent),
- the method or
- by their objectives.

### 2.5.1 Different types of dialogue approaches

“Dialogues” and “Round Tables” (based on facilitation), “Mediation” or “Mediation by expert consultation” characterise different approaches of alternative dispute resolution (ADR). ADR techniques<sup>3</sup> “differ from “traditional” methods of dealing with conflicts i.e. court litigation or administrative adjudication. The latter processes do normally not involve shared decision-making. If at all, they only require solicitation and consideration of public input before decisions are made. However, the above-mentioned objectives can in part also be achieved by joining ADR techniques with traditional procedures of problem-solving.

The *main approaches of neighbourhood dialogues* are based on facilitation and mediation<sup>4</sup>:

#### **Facilitation:**

*Facilitation* is a collaborative process in which a neutral seeks to assist a group of individuals or other parties to discuss constructively a number of complex, potentially controversial issues. The facilitator typically works with participants before and during these discussions to assure that appropriate persons are at the table, help the parties set ground rules and agendas, enforce both, assist parties to communicate effectively, and help the participants keep on track in working toward their goals. While facilitation bears many similarities to mediation, the neutral in a facilitation process (the "facilitator") usually plays a less active role than a mediator and, unlike a mediator, often does not see "resolution" as a goal of his or her work.

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<sup>3</sup> see Daniel Renken: The ABC's of ADR. A comprehensive guide to alternative dispute resolution <http://www.mediate.com/articles/renkenD.cfm>

<sup>4</sup> see U.S. Institute of Environmental Conflict Resolution: Glossary of Terms relation to environmental Conflict Resolution and Alternative Dispute Resolution [http://www.ecr.gov/ecr\\_glossary.htm](http://www.ecr.gov/ecr_glossary.htm)

Facilitation may be used in any number of situations where parties of diverse interests or experience are in discussion, ranging from scientific seminars to management meetings to public forums.

**Mediation:**

*Mediation* is simply facilitated negotiation in which a skilled, impartial third party seeks to enhance negotiations between parties to a conflict or their representatives by improving communication, identifying interests, and exploring possibilities for a mutually agreeable resolution. The disputants remain responsible for negotiating a settlement, and the mediator lacks power to impose any solution; the mediator's role is to assist the process in ways acceptable to the parties. Typically this involves supervising the bargaining, helping the disputants to find areas of common ground and to understand their alternatives, offering possible solutions, and helping parties draft a final settlement agreement. While mediation typically occurs in the context of a specific dispute involving a limited number of parties, mediative procedures are also used to develop broad policies or regulatory mandates and may involve dozens of participants who represent a variety of interests. Mediation most often is a voluntary process, but in some jurisdictions may be mandated by court order or statute [in the US]. (...)<sup>5</sup>

*Distinctions and interrelations between ADR techniques<sup>6</sup>:*

Dispute resolution techniques can be grouped along a spectrum with unassisted negotiation at one end and litigation at the other (see Figure 1). Various hybrid processes exist. These approaches are all characterized by a third party assisting the parties in resolving a conflict. In negotiation the third party may facilitate the process or advise a particular solution. In adjudication the third party imposes a solution.

<i>Unassisted Negotiation</i>	<b>Assisted Negotiation</b>		<i>Adjudication</i>
	FACILITATIVE PROCESSES Conciliation Facilitation Mediation (Ombuds Service, Negotiated Rulemaking)	ADVISORY PROCESSES Fact-Finding Early Neutral Evaluation Mini Trial Summary Jury Trial Non-Binding Arbitration	Binding Arbitration Agency/Court Litigation

Figure 1

**2.5.2 Neighbourhood dialogues as an alternative dispute resolution approach**

*Neighbourhood dialogues* range between the two key approaches facilitation and mediation and may integrate further elements of other designs.

The design of a neighbourhood dialogue should always be case specific – responding to the needs of the specific conflict situation. And of course the approach will depend on the national regulatory basis.

Therefore the discussed dialogue approaches may differ to facilitation and mediation e.g. by the following elements:

1. Neighbourhood dialogues do not always involve a neutral facilitator or mediator: some dialogues are facilitated by a representative of the authority or the company. However

<sup>5</sup> Austria has ratified a law about mediation in 2004. Within the Netherlands and Germany mediation approaches are tested by some Administrative Courts.

a neutral facilitator is key in the case of hardened conflicts or very contentious issues and if none of the involved parties will be accepted and trusted to take the facilitators' role.

2. The selection of participants may range from involving direct neighbours to other stakeholder groups. It is important to define the character of the meetings (public or informal meetings) and how participants may be involved (defined rights of participation e.g. in common ground rules, voluntary participation, delegation or voting of representatives by the participating groups, cooptation of participants by the initiator,...)
3. Binding character of the dialogue expressed by common goals.

*Common criteria for neighbourhood dialogues* should be defined more closely in a follow-up project and may cover (see also criteria for success, chapter 3.3):

- Involving direct neighbours (residents living near the site: by individuals participating and/or by representatives delegated by local groups)
- Involving all parties concerned on a voluntary basis (not only cooption of some key stakeholders by the company)<sup>7</sup> – however a continuous participation by all participants is crucial.
- Clear and commonly accepted objectives to ensure a binding character of dialogue (see chapters 2.5.3 and 2.5.4):  
Minimum criteria are open information and discussion with the neighbours, who should have the right to set topics on the agenda. A commitment by the company to respond to neighbourhoods' questions and concerns (if trade secrets are affected the company should argue why they cannot give further information) is key, too. The character of recommendations or decisions (binding or not), and their (re)integration into traditional legal procedures should be defined before starting a dialogue. The work programme and how long the dialogue will last to come to results should be assessed and fixed in advance.
- Constructive dialogue attitude with a willingness to cooperate and get involved by all dialogue partners
- Willingness to negotiate about how to improve environmental quality
- Regular information to the public – even if it may be useful to agree temporarily on confidential working sessions.

### **2.5.3 Objectives of dialogues**

Goals may range from exchanging and gathering information, complementing expert research, discussing future plans and alternative options, to getting the company's feedback on neighbourhood recommendations or even negotiating compromises and mediating solutions

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<sup>6</sup> see Daniel Renken: The ABC's of ADR. A comprehensive guide to alternative dispute resolution <http://www.mediate.com/articles/renkenD.cfm> with definitions of further approaches.

<sup>7</sup> This is the common mechanism of choice of participants within the Community Advisory Panels (CAPs) which consist of several representatives of local groups who are invited to participate in the CAP by the company.



that are acceptable to all parties. To reach common solutions and binding agreements it is important to introduce binding common ground rules for the dialogue.

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

#### **2.5.4 Principles of dialogues**

To evaluate dialogues some principles of dialogues have been worked out<sup>8</sup>:

- Fairness
  - selection of participants / group composition,
  - dialogue rules
  - selection of issues
  - distribution and balance of power / facilitation
- Competence
  - participation with access to information to gain competence
  - independent expert input
  - quality of results
- Efficiency
  - relation of efforts and outcomes
  - continuous participation
  - external presentation of the dialogue
- Legitimation/acceptance
  - intended goals and result quality
  - participation in decisions
  - transparency
  - internal and external evaluation

#### **2.5.5 Overview of different dialogue approaches of case studies:**

*Dialogues (sometimes with external facilitation):* Neighbourhood dialogues in the Hanover region, GER:

- Honeywell Specialty Chemicals Seelze GmbH
- Volkswagen Nutzfahrzeuge Hannover
- further companies ....
- Odour nuisances of the Trecatti Landfill Site, GB
- Radioactive waste permission to Devenport Royal Dockyard, GB
- Permission of “Waldbühne” open air concert programme, Berlin/GER
- Accompanying of building sites, Berlin/GER
- Agreement to reduce nuisances of a petrol station, SH/GER
- Permit of an old factory in an urban area, DK
- Local commission of information and discussion, F

*Dialogues (or mediation) with involvement of residents in expert research:*

- Aluminium melting site at Drogteropslagen, NL
- Emissions of a mining company, CY
- Incineration plant and compost production, PL
- Health and odour concerns at a chemical site, I

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<sup>8</sup> See Renn, Ortwin et alii (1999): Waste Management 2005 (Abfallwirtschaft 2005). Citizens planning a regional waste management concept (Bürger planen ein regionales Abfallwirtschaftskonzept), Baden-Baden, Nomos-Verlag

- (Noise nuisances of a meat production site, Flanders/BE: no direct involvement of neighbours, but communication to complainants and local authorities)

*Negotiation of agreements/Mediation:*

- Noise-reducing measures of a sawmill, Brandenburg/GER

*Mediation prior to court decisions:*

- Mediation projects at the administrative courts of Hanover, GER and in The Netherlands

### 3 – BEST PRACTICE OF CONFLICT RESOLUTION BY DIALOGUE

The following sections enable a closer look at advantages (section 3.1), assessing uncertainties, risks and limits (section 3.2) and evaluate best-practice proceedings to initiate dialogues (section 3.3.). Synergy effects (section 3.4), the role of authorities to initiate or to participate in dialogues (section 3.5) and a reflection on how to encourage authorities to initiate dialogues and to convince companies to initiate dialogues is addressed in the sections 3.5.3, 3.5.4 and 3.6.

#### 3.1 Advantages

The survey, the evaluation of the case studies and the sharing of experiences focussed on the following advantages of dialogues. They can achieve communication and – as experience has shown – also environmental benefits:

<i><b>Building relationships and trust by information sharing and communication</b></i>	<i><b>Improving environmental performance without judicial pressure</b></i>
<ul style="list-style-type: none"> <li>▪ Because of the involvement and acceptance of all parties solutions are more robust and more sustainable.</li> <li>▪ Participants get additional access to information.</li> <li>▪ Companies become more understanding of neighbourhood concerns.</li> <li>▪ Sites become more accepted by neighbours.</li> <li>▪ Good relationships can be built and trust rises between conflict parties.</li> <li>▪ All parties are aware of and deal with complaints and conflicts very early and openly.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Environmental performance can increase; e.g. links with scheduled investments or within additional discretionary improvement are possible.</li> <li>▪ Results can achieve more than is required by the law.</li> <li>▪ Dialogues support sustainable management approaches.</li> <li>▪ Improvements can be based on voluntary efforts.</li> <li>▪ Companies get a positive image because of voluntary improvements without judicial pressure.</li> <li>▪ All parties spend less time on complaints and can avoid judicial confrontations.</li> <li>▪ Permission procedures can be more efficient for companies and authorities.</li> </ul>

In the long run a dialogue which offers no perspective for environmental improvement runs the risk of failing – neighbours and stakeholders will lose interest in participating if there is no room or willingness to negotiate. However, experience has shown that neighbours understand and accept economic or technical constraints and investment schedules - as long as the company explains its situation and its planning clearly and openly and offers perspectives for the future. Therefore in dialogues companies inform their neighbours at an early stage about future investments and permit procedures. The time within dialogues will then be used by all parties to find efficient solutions: effective to environmental improvement, efficient to the companies' future demands and in conformity with the law – without conflict escalation and

enforcement pressure. This proactive management with a strong orientation to the future supports the acceptance of the site by its neighbourhood and creates a positive image for the company.

The participants also took a closer look at who will benefit from dialogues – advantages can often be shared by several beneficiaries and win-win situations can be created:

- a) the environmental situation
- b) the authorities
- c) the neighbours or
- d) the companies

<b>Advantage.....for</b>	<b>Environmental improvement</b>	<b>Authorities</b>	<b>Neighbours</b>	<b>Companies</b>
Because of the involvement and acceptance of all parties solutions are more robust and more sustainable		X		X?
Participants get additional access to information			X	
Companies become more understanding of neighbourhood concerns		X	X	
Sites become more accepted by neighbours				X
Good relationships can be built and trust rises between conflict parties		X	X	X
All parties are aware of and deal with complaints and conflicts very early and openly		X	X	X
Environmental performance can increase; e.g. links with scheduled investments or additional discretionary improvement are possible	X	X	X	X
Results can achieve more than is required by the law	X	X	X	
Dialogues support sustainable management approaches	X	X		X
Improvements can be based on voluntary efforts	X	X	X	X
Companies get a positive image because of voluntary improvements without judicial pressure				X
All parties spend less time on complaints and can avoid judicial confrontations		X		X
Permission procedures can be more efficient for companies and authorities		X	X	X

### **3.2 Assessing uncertainties, risks and limits**

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

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

Further risks and limits mentioned by participants were (see also annex 2, answers to question 16 and 23)

- The third party or facilitator may not be perceived as neutral.
- The conflict involves too many conflicting parties.
- The result is not open because of political influence, which allows no balance of concerns.
- Nobody will fund the financial resources, e.g. bear the costs for communication, further research, the facilitator.

The conflict analysis assesses these risks before starting a dialogue. In some cases the initiator or the facilitator will introduce case-specific ground rules or elements in the dialogue process or not recommend a dialogue approach to manage the uncertainties, risks and limits. If problems occur during the process the facilitator or the authority can intervene to try and overcome them. If problems cannot be solved then the dialogue process may have to end and traditional regulatory processes used.

### **3.3 Key factors for success and best-practice proceedings**

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

Essential preconditions to a dialogue are:

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

Without these key preconditions chances for success are very low: e.g. if some important stakeholders boycott cooperation offers and count on a conflict settlement by court, by the authority or conflict escalation by media and public pressure, if there is no room for future environmental improvements (e.g. because no technical improvement is available) or if involved participants are not willing to invest their time or spend money to finance dialogue organisation, professional facilitation or expertise. These preconditions are checked by a con-

flict or interest analysis – it is normally carried out by the initiator or external facilitator (see step 1 and 2).

Key factors for success and best-practice proceedings are:

1. Involve and talk to all relevant parties (operator, residents, local interest groups, politicians, police, fire department, inspection and other authorities) to check and analyse their interests, expectations, willingness to cooperate and constraints.
2. Evaluate this feedback and the communicated options for activities to check time horizons and realistic expectations about possible outcomes.
3. Propose a dialogue process design to help the groups work together on the conflict issues. Check if further expertise is necessary. Develop common dialogue goals and fairness principles. Let these be accepted as common ground rules so that the dialogue partnership is binding for all participants.
4. Be clear and open on facts, uncertainties, responsibilities, constraints and alternatives.
5. Be transparent about proceedings and involve the public and the media through public meetings and continuous information.
6. Encourage and support agreement on facts, mutual learning and taking self-responsibility for conflict resolution where appropriate.
7. Let hardened conflicts or very contentious issues be facilitated or mediated by a neutral third person.
8. Make sure that results are implemented with respect to the law and ensure or improve environmental performance.

### **3.4 Synergy effects**

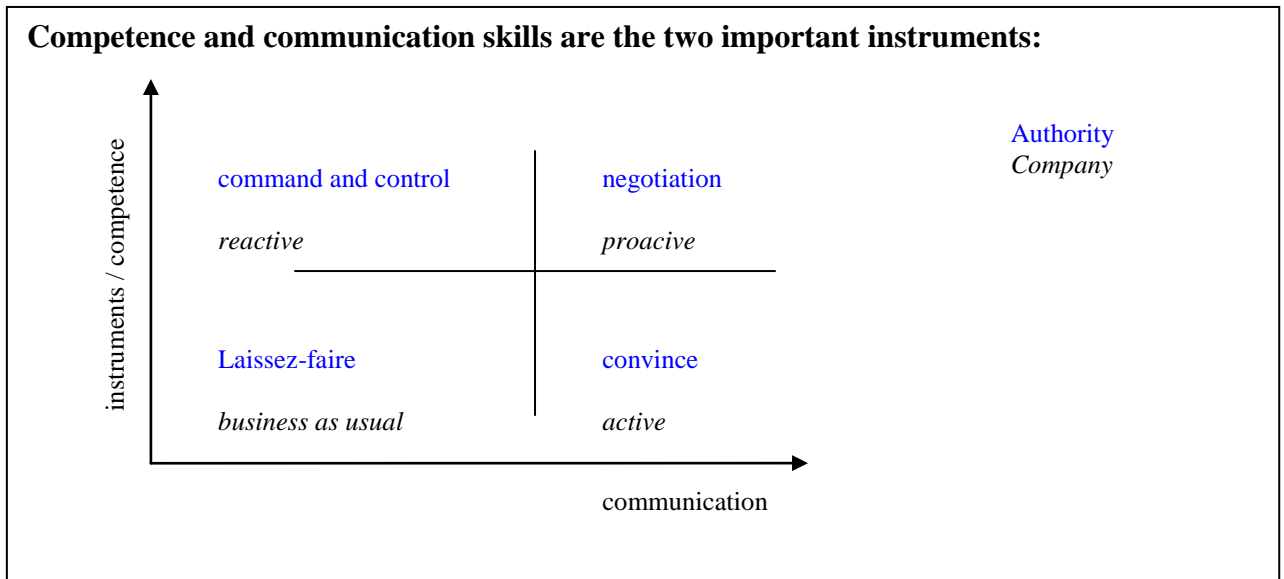
Dialogues enable communication and understanding between the involved parties to find better solutions. Even if the starting phase of a dialogue may be time-consuming, many benefits occur in the long run (see section 3.1 “Advantages”).

Experience has shown that dialogues have synergies, e.g. they

- improve the environmental performance of companies  
Even if improvements may not be possible at once, companies will be eager to obtain better environment performance results in the long run.
- complement environmental and sustainable management systems  
Dialogues are a possible instrument within environmental management systems to ensure communication to integrate stakeholders’ views into environmental strategies and to continually improve environmental performance.
- improve relations  
Dialogues build trust between parties that can be relied on even in critical situations e.g. production incidents or accidents.
- build capacity and self-responsibility

Conflict parties learn to solve their conflicts directly – less intervention by the competent authority is necessary, e.g. to handle neighbourhood complaints. Companies learn to include neighbourhood interests in their investment planning.

The CHARTA project “Working with industry for the environment” in Denmark has been using dialogue as a main principle since 1998: “Experience shows, that better results can often be achieved by dialogue and co-operation than by command and control (see graphic below). A prerequisite for a more constructive dialogue is a greater openness to both problems and solutions, an obligation which applies to both parties.”



- improve the internal communication of companies

Companies learn how to manage open communication internally and can also use this experience for their own communication and their business relations (e.g. complaint management of consumers).

### 3.5 The role of the authority: initiator, facilitator or participant

Inspection authorities generally take the lead for initiating dialogue between an operator and residents with complaints. Inspection authorities representatives often act as a facilitator to encourage direct communication, to mediate between companies and complainants, to initiate partnerships or to act as a participant in a dialogue process. In all cases, authorities play an important role within dialogue processes.

#### 3.5.1 Authorities’ traditional and new tasks

The first project meeting compared traditional and new approaches of authorities with a view to neighbourhood dialogue.

Traditional tasks cover, e.g. determining compliance or non-compliance with law, managing complaints, informing conflict parties and public on authorities’ roles and constraints, solving environmental problems and recommending further (technical) environmental improvements, applying regulatory and enforcement instruments and acting as an advisory body.

Complementary new tasks cover, e.g. encouraging sustainable development, encouraging companies to solve their environmental problems and improve their performance actively, acting as a mediator between companies and neighbours, encouraging self-responsibility, encouraging direct communication and initiating conflict resolution by the conflict parties themselves.

The new tasks demand a new attitude where the following goals are important: listening, responding to questions, gaining additional information and gaining trust to start a dialogue.

### **3.5.2 Authorities' responsibilities and benefits within dialogues**

Authorities contribute to achieving high quality of dialogues and their outcomes e.g. by assessing expert views, giving legal information to all parties and ensuring that legal and public health needs are met.

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

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

### **3.5.3 Assessing the workload of authorities within dialogues**

However, to calculate and compare the workload of authorities within and without dialogues we will still need further assessment to estimate and calculate time and workload

1. of the traditional proceedings in the past  
e.g. time spent with complaint management or court proceedings over recent years
2. of proceedings without dialogue in the future
3. of a dialogue:  
If the company initiates and finances the dialogue (and a professional facilitation) the benefit for the authorities will be higher compared to initiating the dialogue (and perhaps facilitating or paying a facilitator) themselves. The time and workload of a dialogue should be estimated within the conflict analysis before starting a dialogue based on e.g. time to achieve results, expected quality of results, involvement of experts, involvement of external facilitators,...

From the answers to the questionnaire and the templates of best practice examples we did not get reliable quantitative data. The estimation and comparison of the two alternative options 2 and 3 are difficult, because one can only control the chosen option - and over the years often different persons are responsible for a specific case.

In Lower Saxony and other case studies the authority had less work after the implementation of a neighbourhood dialogue because the complaints concerning the sites decreased significantly (down to no complaints at all).

### **3.5.4 Convincing authorities to implement dialogues**



The first project meeting developed the following steps necessary for addressing authorities to convince them to test and implement dialogue approaches by

- Communicating and disseminating advantages (see section 3.1 “Advantages”)
- Defining certain quality standards and best practice
- Promoting good experiences (by documenting examples of national and international experience in a summarised version)
- Initiating pilot projects
- Involving heads of authorities
- Convincing traditionally working employees and managers of authorities to get support for dialogue approaches
- Qualifying authority’s staff in communication skills (awareness, clarifying the informal scope, changing attitudes, education of the different actors, teamwork)
- Initiating networks

### **3.5.5 Initiating further dialogue case studies**

The first project meeting enumerated the following starting conditions to find case studies where a dialogue approach may be useful:

Conditions for companies would be:

- Long history of complaints concerning plants
- Trustworthy companies with respect of permits/law
- Using dialogue to negotiate about further aspects and (voluntary) benefits
- Readiness for environmental performance improvement

Conditions within the neighbourhood would be:

- Relevant complaints
- Considerable number and influence of complainants (easier if organized groups)

Conditions for authorities would be:

- Resources and discretion to initiate dialogue
- The role of the authority must be clear (see section 3.4 “The role of the authority”)
- Authorities must be informed about informal outcomes.

### **3.6 Encouraging companies to initiate dialogues**

Recommendations of the first project meeting concentrated on how authorities may encourage companies to initiate dialogues:

- looking for possible advantages for the company (see also section 3.1)
- using differentiated suitable approaches for small, medium and large companies
- offering support of the authority by initiating and optimising the dialogue processes
  - convincing companies that open information is key

- encouraging a dialogue attitude of mutual respect from companies
- encouraging companies to include neighbourhood interests in their investment planning
- finding out the barriers within a company and support the company to overcome them
- encouraging companies to be clear on goals, intention, expectations before initiating a dialogue (see section 3.3)
- addressing the cost issue (who pays for what, e.g. facilitation, experts)
- offering incentives for the company (optional and if suitable):  
extended duration of permits, give credits for investments, pay-back for investments,...
- initiating exchange and networking among companies.

## **4 – CONCLUSIONS AND RECOMMENDATIONS TO IMPEL AND ITS MEMBER STATES**

### **4.1 Conclusions and final recommendations**

The participants of the project recommend to IMPEL supporting the further application of dialogue processes as voluntary instruments in the implementation and enforcement of environmental law. In particular they recommend

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

### **4.2 Dissemination of project results**

To disseminate the project results the participants recommended

- developing a short dialogue brochure (see annex 8) to explain dialogue processes, their background and their usefulness to authorities, companies, neighbours/the public and to the environment. The brochure should also be translated into a selection of member states' languages for dissemination to stakeholders
- putting the dialogue brochure and the final report on the IMPEL websites (European and national)
- disseminating the dialogue brochure
  1. at the European level with the aid of the IMPEL secretariat (DG Enterprises, DG Environment, others...) and
  2. at national and regional levels with the aid of the national IMPEL coordinators: not only within IMPEL structures, but also to inform key stakeholders in business and environmental organisations (NGOs).
- searching for synergies with other European projects that encourage public participation in environmental issues to share good practice, learning and new tools and techniques.

### **4.3 Follow-up project:**

#### **developing a practical toolkit, sharing experience, evaluating toolkit and case studies**

Participants were keen to have a follow-up project to exchange and obtain more information and practical experience about how to successfully implement dialogue processes. A follow-up project could deliver:

1. a practical toolkit on how to implement dialogues
2. case studies to test the practical toolkit and evaluate further dialogue processes whilst delivering the specific needs of IMPEL and the requirements of the relevant legislation.

## 5 – REFERENCES AND LITERATURE

Copenhagen County, Technical Administration – The CHARTA project: Working with industry for the environment – Glostrup, Denmark, June 1998

Department of Labour and Environmental Inspection Hanover – “Enterprises and their neighbours: building confidence to solve conflict. 12 steps towards a good neighbourhood” – Hanover, Lower Saxony, Germany, October 2003. Download: [www.gewerbeaufsicht.niedersachsen.de](http://www.gewerbeaufsicht.niedersachsen.de)

Environment Agency of England and Wales – “Building trust with communities. A toolkit for staff” – Bristol, United Kingdom, 2004. Email: [ruth.rush@environment-agency.gov.uk](mailto:ruth.rush@environment-agency.gov.uk)

French regulation on the Local Committees for Information cover three areas: nuclear energy sites (CLI), waste management sites (CLIS) and industrial risk (Seveso II) sites (CLIC). Download of the CLIC decree “Information et concertation du public : Les comités locaux d’information et de concertation CLIC” : [www.ecologie.gouv.fr/article.php3?id\\_article=2396](http://www.ecologie.gouv.fr/article.php3?id_article=2396)

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Renn, Ortwin et alii (1999): Waste Management 2005 (Abfallwirtschaft 2005). Citizens planning a regional waste management concept (Bürger planen ein regionales Abfallwirtschaftskonzept), Baden-Baden, Nomos-Verlag

U.S. Institute of Environmental Conflict Resolution: Glossary of Terms relation to environmental Conflict Resolution and Alternative Dispute Resolution [http://www.ecr.gov/ecr\\_glossary.htm](http://www.ecr.gov/ecr_glossary.htm)

## ANNEXES

- 1 Project presentations - overview
- 2 Survey evaluation - short version
- 3 Best-practice examples
- 4 Templates for collecting best practice examples
- 5 Unresolved conflicts
- 6 Template for collecting unresolved conflicts
- 7 Participants
- 8 Dialogue brochure “Solving environmental conflicts by dialogue”

## **ANNEX 1: PROJECT PRESENTATIONS - OVERVIEW**

### **1st Project meeting 14-16 November 2004, Hanover**

#### *Neighbourhood dialogue of Honeywell Specialty Chemicals Seelze GmbH*

- Welcome and introduction  
Dr. Ralf Finzel, Managing Director, Honeywell Specialty Chemicals Seelze GmbH
- Honeywell: Dialogue with the neighbours and the community  
Sabine Chmielewski, Director Communication Honeywell Specialty Materials Europe
- Aims, objectives and proceedings by the facilitator  
Maren Schüpphaus, Managing Director, hammerbacher consultants, Osnabrück/project team

#### *Introduction to informal resolution of environmental conflicts*

- Overview of the participants' answers to the questionnaire and important issues  
Maren Schüpphaus, project team, Germany

#### *Case study presentations and discussion*

- Mediation at the administrative court of Hanover  
Antje Niewitsch-Lennartz and Andreas Kleine-Tebbe, Administrative Court Hanover, Germany
- Does an aluminium melting company cause cancer?  
Gerda De Vries, VROM-Inspectie Nord, Groningen, The Netherlands
- Trecatti Landfill Site - it ain't what you do, it's the way that you do it  
Ruth Rush, Environment Agency (England and Wales), Bristol, United Kingdom

### **2nd Project meeting 30 May -01 June 2005, Hanover**

#### *Neighbourhood dialogue of Volkswagen Nutzfahrzeuge*

- Introduction to Volkswagen Nutzfahrzeuge and its neighbourhood dialogue  
Dirk Stielau, Environmental Protection, Volkswagen Nutzfahrzeuge
- The foundry and visit to the foundry  
Dr. Uwe Bischoff, Head of the Foundry, Volkswagen Nutzfahrzeuge

#### *Best practice examples - Introduction*

- Overview of previous and best practice case studies results  
Maren Schüpphaus, project team, Germany

#### *Best practice examples – Presentation of case studies*

- Local committees for information  
Christian Ron, France
- Construction of the new main railway station in Berlin (former “Lehrter Bahnhof”)  
Axel Strohbusch, Berlin, Germany
- An incineration plant and compost production in Warsaw  
Agnieszka Tarach, Poland

#### *Unresolved conflicts - Presentation of case studies*

- Quarry industry in Vasta Valley  
Hans Zetterling, Sweden
- A pharmaceutical production site  
Lene Thystrup, Denmark
- Nuisance from a paint producer  
Robert Baert, Belgium/Flanders
- A waste incineration plant in Hanover  
Lars Bobzien, Germany/Lower Saxony

## ANNEX 2: SURVEY RESULTS – SHORT VERSION

This evaluation is based on 21 answers to the questionnaire from 16 participating countries. Dated: 26-10-2004  
*Maren Schüpphaus, member of the project team*

### A) Reasons and circumstances of neighbourhood conflicts:

1. What are the typical conflicts for which residents file complaints?
2. In which manner are these complaints put forward?
5. Describe profiles of typical complainants and how they proceed.
6. When and how is/are the competent authority/authorities notified about a conflict? At what stage of a conflict?

Focus of neighbourhood complaints lies normally on *personal concerns* of nuisance - especially noise and odours – or health concerns (with increasing importance).

There is no typical complainant, however some characteristics may be “direct interest” and “well informed” persons – or on the other hand “with little knowledge”. Proactive complainants are seeking support to organise their interests effectively and to research further information.

A complaint is often *caused* by

- an anomalous production condition (e.g. an incident with emissions) or
- a specific circumstance with public awareness or visible activities (e.g. a permit procedure, a public meeting, a building site, the visit of authority’s staff on the site) or
- controversial industrial production sites (e.g. cement industry, waste incinerators, quarries,...)

Conflicts concern not only the environmental or health issue (like nuisance, health impacts,...) but also the administrative proceeding (e.g. complaints that the authorities’ staff is not doing its job properly or what is perceived to be its job).

The complaints are *put forward* orally (by telephone, at a meeting) or in writing (by letter, fax, email or by using a complaint or contact form on a website). Some countries have established

- telephone *hotlines* (e.g. . Green number in Italy/Tuscany, SOS Environment line in Portugal, Emergency line in Spain/Basque)
- a parliamentary *ombudsman* (e.g. Cyprus, Spain/Galicia)

Complainants *address* their complaints

- directly to companies
- to (several) authorities
- to well-known personalities with (assumed) competences in the issue (e.g. mayors, politicians)
- via non-governmental organisations (NGOs)
- via media
- or through the legal system (e.g. judicial review, to the judge,...)

The *competent authority* is often unknown and therefore not the (first) receptor of the complaint. Often the competent authority is only notified after the conflict has already escalated or direct dialogue and search for compromise have failed.

Some countries seem to have established *complaint management procedures*, e.g.

- a system and categories of processing complaints in Belgium/Flanders
- a procedure for complaint management in Italy/Tuscany
- the administrative practice to forward complaints to the company and authorities concerned in Sweden
- an explaining procedure to the complainant in France and Poland.

### 7. Which other parties are involved in such a conflict?

### 8. Do the affected parties in a conflict use public relations as an instrument? In which manner?

A wide range of institutions, associations and individuals with a large scale of interests may be involved in a conflict.

Conflict resolution should address more relevant conflict parties than the complainant and the company (and their lawyers).

The competent *authority* is not always perceived as a neutral facilitator, but as an *interested party*.

The complainants use *public relation instruments* often and effectively to promote their interests. Companies and authorities are less proactive in their use of public relations strategies and instruments.

### B) Legal Conflict Settlement:

3. **What rights to information do residents have?**
4. **What legal rights do residents have to protect/defend themselves (e.g. right to veto, rights as a neighbour, right to sue)?**

The residents have rights to information in accordance with the European Information Act. In many countries no specific interest is required to receive the information. Some countries have broadened information access by

- *freedom information acts* covering all administrative and not only environmental data. Restraints consist for instance in revealing company secrets, personal data or intellectual property.
- UK Environment Agency of England and Wales has an *Electronic Public Registers Project* to publish and deliver environmental and administrative data.
- UK Environment Agency of England and Wales has published “Public access to information: a *guide for Agency staff*.”
- Some countries count on voluntary systems with open public information by the companies, e.g. the CHARTA project in Denmark or EMAS statements

Residents can use several types of rights (public law or administrative law), e.g.

- information rights (see above) e.g. on statutory duty, access records
- civil law claims: neighbourhood protection rights, liability/indemnity rights
- formal consultation mechanisms under specific statutory regimes (administrative law), e.g. participation in permit procedures
- administrative law: inputs, proposals, objection, claim/lawsuit.

9. **Which authority/agency is responsible for dealing with conflicts arising from environmental emissions (e.g. noise or odours) through industrial installations requiring a permit (IPPC Directive) between residents and businesses in your country?**

*Different authorities* deal with conflicts arising from environmental emissions. Competences are divided into agencies specialised by environmental media (e.g. France) or between local, sub-regional (e.g. Germany), regional (e.g. Belgium/Flanders, UK) and national authorities (e.g. Ireland).

In IMPEL member states *permits and inspections* may be separated between different authorities or may be carried out by the same authority.

10. **How does the agency’s staff deal with neighbourhood conflicts? Which competencies and liberties do the employees have when resolving conflicts?**
11. **Describe the administrative and legal status of your agency in legal disputes between conflicting parties.**
12. **Describe whether the agency is involved in legal disputes between conflicting parties and if so, how?**
15. **To what extent is the agency or other parties involved or not involved in resolving the conflict?**

The agency’s staff deal with neighbourhood conflicts with a wide range of competencies/skills and liberties – from administrative practice according to their own attitude to relatively prescribed procedures. E.g.

- examination of the conflict issue to determinate compliance or non-compliance
- informal activities to encourage direct communication, to achieve a compromise or to facilitate conflict resolution e.g. use of mediation or mediation elements in Austria, Germany, The Netherlands, UK
- applying complaint management procedures
- applying enforcement instruments.

Authorities have different roles in legal disputes between conflicting parties – as a witness, as an expert, as a sued party/defendant, as a claimant/plaintiff, as enforcement authority, as police force or as a facilitator or mediator.

13. **How long does it take to resolve such a conflict? What factors influence the time taken to reach a settlement?**
14. **Who are the parties actively involved in settling a conflict and in enabling and facilitating direct communication between the conflicting parties?**



The time to resolve a conflict cannot be estimated, because every case is influenced by a wide range of factors.

The parties actively involved in conflict resolution may be the conflict parties themselves, the competent authority or other authorities e.g. the supervisory authority, other parties or personalities e.g. politicians, public servants or neutral third persons e.g. mediators/facilitators or judges/courts.

### C) Informal Conflict Settlement:

#### 17. Have you already tried settling environmental conflicts between authorities, businesses and residents at the local level through dialogue and by means of informal conflict resolution in your country?

Most of the participating countries have successful experience with dialogue and informal conflict management. Some countries have little or no experience or – on the other hand – have promotion and evaluation projects in dialogue facilitation and mediation. Special experience/instruments e.g.:

- Austria: formal possibility to try mediation before awarding permit
- Germany: facilitation, dialogue and mediation projects
- The Netherlands: facilitation, dialogue and mediation projects
- UK: facilitation, dialogue, mediation and evaluation projects

#### 18. Do you see the attempt to resolve conflicts informally before legal action is taken as a viable option in your country?

#### 21. Is there a legal or administrative practice in your country which might promote or obstruct informal solutions to conflicts, e.g. which might facilitate or impede dialogue between conflicting parties?

#### 22. What reasons or regulations might prevent an informal approach to settling neighbourhood conflicts in your country?

All answers estimated informal conflict resolution as a viable option – most of the answers saw no formal obstructions in their country. Informal conflict resolution may be promoted as a successful administrative practice...

#### 19. How could neutral third parties be involved in the process of planning and facilitating communication (to what extent, when, in what manner and with what limitations)?

Neutral third parties may be involved – preferably at an early stage of conflict with room to negotiate –

- to initiate dialogue, to provide an arena for communication (honest broker),
- to plan and organize a communication process (facilitator),
- to mediate between the conflicting parties (mediator) or
- as a conciliator or an arbitrator.

Key factors are for instance

- separate communication of the neutral party with each one of the conflict parties (at the beginning),
- defining clear objectives and common ground,
- clarifying information,
- the constraints of all parties are known and understood,
- the expectations of the outcome and level of influence parties can have are properly managed,
- acceptance of the third party role.

Limitations lie in interference with enforcement of legislation and permits, in funding the costs of a third party and if the third party is not accepted or perceived as neutral.

#### 20. In what manner could the results of an informal settlement be integrated into legal proceedings?

Informal results must be in compliance with legislation.

The results of an informal settlement may be integrated into the legal proceeding by

- integration of results into the permit decision
- integration of results into the permit application regulation/recor

- integration in administrative decisions (administrative discretion)
- signing a (public-) private contract

It is important to clarify if and how the enforcement authority may use the information about the results or non-results of an informal procedure.

**16. Which advantages or disadvantages do you see in the way neighbourhood conflicts are legally settled?:**

**23. What do you see as the advantages or disadvantages which might arise from an informal approach to resolving neighbourhood conflicts?**

See this annex, pages 5 and 6

#### **D) Preparing the first project meeting**

**24. Is there an example of how a conflict was dealt with successfully (legally or informally) which you would like to present as a best-practice example at the project meeting?**

**25. Briefly describe this example.**

See annex 3 “Best-practice examples”

**26. What made this settlement so successful?**

Success factors were: external pressure on the conflict parties, the active involvement of all relevant parties, the willingness to come to a solution by the involved parties, room to negotiate, the acceptance of the facilitator/mediator, the clarifying of information sometimes with support of experts with acceptance from all parties, the trust of all parties in a fair proceeding.

**27. For our first meeting I am particularly interested in finding out more about the following issues:**

The participants are interested in

- exchanging experiences about dealing with complaints/complaint management: standards, procedures, acceptance of anonymous complaints, forwarding complaints to competent authorities,...
- discussing examples and instruments of informal conflict resolution: recommendations and key factors to a successful conflict settlement, integration of informal conflict management into legal/administrative proceedings, the role of officials, identifying conflicts early by the competent authority, expectations of conflict parties vis-à-vis mediators, funding of mediation projects,...

Advantages of <b>legal</b> conflict resolution	Disadvantages of <b>legal</b> conflict resolution
<p>Time pressure</p> <ul style="list-style-type: none"> <li>- legal procedures make finding a solution more urgent</li> </ul> <p>Provides certainty and clarity</p> <ul style="list-style-type: none"> <li>- only solution when informal conflict settlement doesn't come to a solution</li> <li>- the threat of legal instruments is always in the background when trying to find an informal solution.</li> <li>- effective punishment of lawless operators, which can contribute to dissuading other industrial operators from disregarding the legal environmental obligations</li> <li>- clear course of proceedings and system of appeal</li> <li>- after an intervention of the EIS and after the sanitation, the company comes to a situation of compliance</li> <li>- especially in the case of acute hazard, legal instruments are necessary</li> </ul> <p>Acceptance of solutions by all conflict parties</p> <ul style="list-style-type: none"> <li>- allows parties to air their views and delivers an authoritative outcome</li> <li>- objectivity</li> <li>- acceptance: the complainants take the court order as final instance</li> </ul> <p>Facilitation of authority's work</p> <ul style="list-style-type: none"> <li>- profit of time for authority, because there is no need for facilitating</li> <li>- decision responsibility moves to Court</li> <li>- it makes subsequent decisions on similar cases easier as a precedent is set</li> <li>- nobody can say that administration is impartial when it's a Court decision</li> </ul>	<p>No benefit in time and money</p> <ul style="list-style-type: none"> <li>- costly and protracted for all parties</li> <li>- legal procedures can take many years. In the meantime the real problem is often not solved, for example no adequate information is gained about the real emissions and the effects of the emissions and about the necessity for emission reduction</li> </ul> <p>No avoidance or influence of legal confrontation</p> <ul style="list-style-type: none"> <li>- the cost aspect of litigation arguably deters many people with a legitimate grievance from obtaining a fair outcome</li> </ul> <p>No improvement of the relationship and the understanding</p> <ul style="list-style-type: none"> <li>- no established procedure of direct communication between the conflict parties</li> <li>- no settlement of personal conflict</li> <li>- no settlement of non-legal conflict matters</li> </ul> <p>No possibility to find accepted and sustainable solution</p> <ul style="list-style-type: none"> <li>- the judicial review system allows only challenges on legal/procedural issues</li> <li>- this arguably prevents concerned residents from attacking the merits of a decision (directly) and requires them to find, and courts to settle, sometimes obscure legal points</li> <li>- residents usually don't take further steps after administrative proceeding is finished</li> <li>- no compromise offers of the company</li> <li>- no compromise, no common result, no acceptance, no resolution: some parties will remain unhappy with the decisions and may continue to campaign against the principles of the matter. Disturbances will remain</li> </ul> <p>Influence of authority's work</p> <ul style="list-style-type: none"> <li>- it renders the inherently contentious work of regulatory authorities potentially unsustainable</li> <li>- an <b>effective</b> actuation of the environmental inspectors only occurs when the environmental conflict is already settled, and the problem is actually installed, which makes it more difficult to resolve</li> </ul>

Advantages of <b>informal</b> conflict resolution	Disadvantages of <b>informal</b> conflict resolution
<p>Saving time and money</p> <ul style="list-style-type: none"> <li>- shorter and cheaper than a lawsuit,</li> <li>- smooth permission procedure</li> <li>- covering of schedule investments</li> </ul> <p>Avoiding and positively influencing legal confrontation</p> <ul style="list-style-type: none"> <li>- prevent legal disputes</li> <li>- acceleration of administrative proceedings</li> </ul> <p>Improving of the relationship and the understanding</p> <ul style="list-style-type: none"> <li>- builds trust/confidence</li> <li>- reduces confrontation</li> <li>- better relations during normal site operations and permit determinations</li> <li>- improved awareness</li> <li>- sensitisation of company's staff for neighbourhood concerns</li> <li>- image profit for companies and employees</li> <li>- positive effects on internal communication and communication with customers for companies</li> </ul> <p>Obtaining accepted and sustainable solutions</p> <ul style="list-style-type: none"> <li>- building trust during the process</li> <li>- active involvement of all parties concerned</li> <li>- conflicting parties feel a kind of achievement during the procedure</li> <li>- better acceptance of and trust in the decisions made</li> <li>- the settlement lasts for longer</li> <li>- negotiating recommendations and agreements</li> <li>- compromise as ideal solution or a more consensual solution</li> <li>- location security (assuring the future of the production site)</li> </ul> <p>Finding a better solution</p> <ul style="list-style-type: none"> <li>- the operator should sort things out before their plans are finalised and costs determined. This is the time when true consultation rather than information sharing can occur.</li> <li>- clarifying the issues, less confused debates</li> <li>- including different perspectives/perceptions and attitudes</li> <li>- influencing companies' or authorities' planning and decisions</li> <li>- getting environmental improvements that are not included in the legislation, some kind of compensation to those parties who suffered</li> </ul> <p>Facilitation of authority's work</p> <ul style="list-style-type: none"> <li>- no need for further repressive actions of the inspector</li> <li>- insight information for the authority</li> <li>- authority is only responsible for implementation</li> </ul>	<p>No benefit in time and money</p> <ul style="list-style-type: none"> <li>- can also be resource intensive in time and money</li> <li>- parties which have interest in a long-term solution of the conflict can prolong the negotiations</li> </ul> <p>Possible interference with the enforcement of legislation and permit</p> <ul style="list-style-type: none"> <li>- delay of legal solution if no informal resolution is obtained</li> <li>- misuse of informal proceedings to obtain information without intention to negotiate a solution informally but instead to use the information in legal proceeding</li> <li>- may raise (exorbitant) expectations of the level of influence over the process and outcome</li> <li>- complicating of decisions</li> </ul> <p>No willingness to informal approaches by conflict parties</p> <ul style="list-style-type: none"> <li>- impossibility to resolve informally the conflicts arising from an intentionally bad environmental conduct of an industrial operator</li> <li>- the informal approach is also difficult in the case of an existing installation whose neighbourhood has appeared many years after because the first one to settle - the industrial installation – does not easily accept complaints from residents who chose to live near it</li> </ul> <p>No acceptance of solutions, no solution</p> <ul style="list-style-type: none"> <li>- it doesn't necessarily settle the concerns of all the residents</li> <li>- in some (many?) cases, the informal procedure doesn't come to a solution</li> </ul> <p>Interference with the authority's work</p> <ul style="list-style-type: none"> <li>- there would always be the need for communities to feel they could turn to the relevant authorities if things are not resolved</li> <li>- an informal approach and an informal solution cannot secure the respect of the authorisation and the technique prescriptions</li> <li>- detailed recording of results to avoid new discussions</li> </ul>

### **ANNEX 3: BEST-PRACTICE EXAMPLES**

Overview of case studies of best-practice examples sent in by participants by their response to the questionnaire (see annex 2), by filling in the template of the best-practice audit (see annex 4) and by presentations during the two project meetings (see annex 1)

#### **CYPRUS:**

*Involvement of stakeholders in the terms of references agreement for an expert consultation about emission problems of a mining company*

#### **DENMARK:**

*Dialogue meetings with interested parties, authorities and neighbours to apply for a new permit procedure*

#### **FRANCE:**

*Proactive information for residents about noise-intensive testing activities,*

*Committees for Information for nuclear energy (CLI), waste management (CLIS) and industrial risks/Seveso II (CLIC) sites*

#### **GERMANY:**

*Yearly dialogue meeting with residents about the planned concert programme of the open air stage "Waldbühne", Berlin*

*Round table with residents to accompany the building of the new main railway station Lehrter Bahnhof, Berlin*

*Trilateral agreement between operator, community and neighbours about noise-reducing measures and strategies of a saw mill, Brandenburg*

*Mediating and solving neighbourhood conflicts concerning a petrol station, Hesse*

*Neighbourhood dialogue of Honeywell Specialty Chemicals Seelze GmbH, Lower Saxony*

*Neighbourhood Dialogue of Volkswagen Nutzfahrzeuge, Hanover, Lower Saxony*

*Neighbourhood dialogues of small and medium-sized enterprises of the cement, aluminium melting, chemical, waste management industry, a saw mill and a logistic centre of the food industry, Lower Saxony*

*Mediation between the owner of a party service and the owner of a neighbourhood building, Hanover*

#### **ITALY:**

*Dialogue meetings between municipality, public and industry about health and odour concerns, Lombardy*

*Organising public meetings about hazardous substances emissions, Tuscany*

#### **THE NETHERLANDS:**

*Mediation by expert consultation about emissions of an aluminium melting site at Drogteropslagen*

**POLAND:**

*Complaint management of ecological and citizens groups about the planning of a medical waste incineration plant, Rabka*

*Informal stakeholder group to accompany odour measurements and technical improvements of a waste management site, Warsaw*

**SPAIN:**

*Informal meetings with representatives of the council, industry, environment, health and civil protection authorities about chlorine smells of an industrial area, Basque County*

**UNITED KINGDOM:**

*Public meetings and other communication offers with key stakeholders to accompany a radioactive waste management permission procedure of Devenport Royal Dockyard Limited*

*Stakeholder dialogue of Trecatti landfill site, South Wales*

## ANNEX 4: TEMPLATE FOR COLLECTING BEST-PRACTICE EXAMPLES

# An audit of best-practice examples

Dear participants,

At the end of our first conference we agreed to collect more detailed case study information to help us to learn from our experiences. This will help us to share good and bad experiences.

We are particularly interested in situations where action has stopped an issue from becoming contentious. The evaluation will help us to identify:

- different proceedings and methodology approaches within the IMPEL member states
- key factors of success
- best-practice experience

and to develop

- recommendations on how to transfer experience and implement dialogue approaches successfully.

To help us to capture your experience and expertise we have developed the case study form below.

- Please complete the questions as fully as you can.
- For those who sent us case studies we have attached the information you gave us already with the first questionnaire. We would be grateful if you could complete the additional information on the case study form.
- If you have more than one case study, please use a separate form for each one.

Thank you for your support!

**Project Management Team**

### A. Your contact details

<i>Country</i>	
<i>Name</i>	
<i>Job title*</i>	
<i>Address*</i>	
<i>Website*</i>	
<i>Contact telephone number*</i>	
<i>Email*</i>	

*\* Not required for project participants.*

### B. Site details

<b>Site name</b>	
<b>Address</b>	
<b>Website</b>	
<b>Number of employees</b>	
<b>Category of site (e.g. IPPC number, landfill, chemical site,...)</b>	
<b>Brief description of current status site regulation e.g. does it have an authorisation?</b>	

<b>Brief description of ...</b>	
<b>..the site including the distance to populated areas</b>	
<b>... products, installations, site operations</b>	
<b>... working hours</b>	
<b>....environmental performance: input materials, emissions, special risks....</b>	

### **C. Background information**

#### ➤ **1. Issues**

- environmental issues causing conflict (e.g. noise, odour, health concern or others):
- other issues causing conflict (e.g. mistrust, personal perceptions, political agendas):

#### ➤ **2. Background history and timescales**

*Timescales*

*How long has the site existed for?*

*When did the current issue with this site start and finish?:*

<b>Start date:</b>	
<b>Finish date:</b>	

**What happened? Please outline the actions that have caused or influenced the conflict, using the table below.**

- Please state key actions (approximately in a chronological order)
- Please rate the success of your key actions as authority from 1-10, 1 = fail, 10 = success)
- What statutory processes were undertaken?

<i>When? (month/year)</i>	<i>Who?</i>	<i>Did what?</i>	<i>Please rate authority's success (1-10)</i>
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#### ➤ **3. Briefly describe the role of your authority within the conflict**

#### ➤ **4. Briefly describe the involved actors (persons, groups, institutions) and their interests**

### **D. Conflict resolution approaches**

#### ➤ **5. Briefly describe how you came to a solution**

#### ➤ **6. Which methods or approaches (exceeding administrative procedures) have been applied? Please state if they were successful or not.**

#### ➤ **7. What was the result/outcome of the issue (positive and negative)?**



- **8. If dialogues were initiated or partnerships were formed, please name ...**
  - ... Initiators:
  - ... Participants:
  - ... Objectives:
  - ... Ground rules:
- **9. How did you estimate the cost and benefits of your approach (money, time, acceptance of decisions, sustainability of results and conflict resolution, others... )?**
- **10. Was the effort worthwhile? If so, why?**

**E. Sustainability of conflict resolution**

- **11. How did the relationship between the company and other stakeholders progress?**

During the conflict...

After the conflict was resolved...

- **12. What is the current state of the relationship?**
- **13. Briefly describe factors that influenced the maintaining of good relationships:**
- **14. Have you followed up on your contact with the community/participants? If yes, when and how did you do it and what was the result?**

**F. Further information**

- **15. Do you have any further information that people can look at (for example reports or summary documents) ?**
- **16. In relation to this case study, what additional resources/information would have helped you to work more efficiently and effectively?**

**G. (Personal) Evaluation**

- **17. What lessons did you learn? Please tell us what did and did not work well.**
- **18. What key factors for success or obstacles would you recommend to keep in mind when initiating dialogue actions?**
- **19. What 3 key messages would you share with colleagues?**
- **20. Do you have any additional comments?**

Thank you for providing these answers!

## **ANNEX 5: UNRESOLVED CONFLICTS**

Overview of unresolved conflicts sent in by participants by filling in the template of the best-practice audit (see annex 6) and by presentations during the two project meetings (see annex 1)

### **Belgium:**

*Nuisance from a paint producer*

### **Denmark:**

*A pharmaceutical production site*

### **Germany:**

*A waste incineration plant in Hanover*

### **Sweden:**

*Quarry industry in Vasta Valley*

### **Other examples covered the following sites:**

*Airport*

*Chemical plant*

*Chemical landfill site*

*Compost production site*

*Cement production site*

**ANNEX 6: TEMPLATE FOR COLLECTING UNRESOLVED CONFLICTS****An audit of unresolved conflicts**

Dear participants,

At the end of our first conference we agreed to collect more detailed case study information to help us to learn from our experiences. This will help us to share good and bad experiences.

We are particularly interested in unresolved conflicts - especially if you would like to suggest cases where dialogue approaches may be tested in a follow-up project.

We have developed a case study form to help us to collect the information. Please complete the questions as fully as you can. If you have more than one case study, please use a separate form for each.

Thank you for your support!

Project Management Team

**A. Your contact details**

<i>Country</i>	
<i>Name</i>	
<i>Job title*</i>	
<i>Address*</i>	
<i>Website*</i>	
<i>Contact telephone number*</i>	
<i>Email*</i>	

*\* Not required for project participants.*

**B. Site details**

<b>Site name</b>	
<b>Address</b>	
<b>Website</b>	
<b>Number of employees</b>	
<b>Category of site (e.g. IPPC number, Landfill, chemical site,...)</b>	
<b>Brief description of current status site regulation e.g. does it have an authorisation?</b>	
<b>Brief description of ...</b>	
<b>..the site including the distance to populated areas</b>	
<b>... products, installations, site operations</b>	
<b>... working hours</b>	
<b>....environmental performance: input materials, emissions, special risks....</b>	

## C. Background information

### ➤ 1. Issues

- environmental issues causing conflict (e.g. noise, odour, health concern or others):
- other issues causing conflict (e.g. mistrust, personal perceptions, political agendas):

### ➤ 2. Background history and timescales

*Timescales*

*How long has the site existed for?*

*When did the current issue with this site start and finish?:*

<b>Start date:</b>	
<b>Finish date:</b>	

**What happened? Please outline the actions that have caused the conflict, using the table below.**

- Please state key actions (approximately in a chronological order)
- Please rate the success of your key actions as authority from 1-10, 1 = fail, 10 = success)
- What statutory processes were undertaken?

<i>When? (month/year)</i>	<i>Who?</i>	<i>Did what?</i>	<i>Please rate authority's success (1-10)</i>
-------------------------------	-------------	------------------	---

### ➤ 3. Briefly describe the role of your authority within the conflict

### ➤ 4. Briefly describe the involved actors (persons, groups, institutions) and their interests

### ➤ 5. Did you come to a solution?

If, no:

- Please tell us why and in which aspects the conflict is not solved:
- Would you appreciate a dialogue approach to try to solve the conflict (and why)?

**Thank you for providing these answers!**

**ANNEX 7: PARTICIPANTS**

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**ANNEX 8: DIALOGUE BROCHURE**  
**“SOLVING ENVIRONMENTAL CONFLICTS BY DIALOGUE”**

# Solving environmental conflicts by dialogue



European Union Member State for  
the Implementation and Enforcement  
of Environmental Law

## The project

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

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



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

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

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



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

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

## Foreword

Ladies and Gentlemen,



I am pleased to present to you the recommendations of the IMPEL network neighbourhood dialogue project. This project titled «Informal resolution of environmental conflicts by neighbourhood dialogue» involved participants from 17 European countries. It achieved an exchange of dialogue experiences between member states.

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

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

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

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

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

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

Hans-Heinrich Sander  
Minister for Environment  
of Lower Saxony



## The main results

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

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

Dialogues cannot replace the usual

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

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

## Dialogues and their results have to comply with the law.

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

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

## 1. How dialogues solve neighbourhood conflicts

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

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

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

*The Aarhus convention was adopted at the 4th UNECE Conference in 1998 in Aarhus, Denmark, and came into force on 30th October 2001. During 2005 it will be ratified by 35 member states.*

## 2. Which type of dialogue approach is suitable?

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

recommendations or even negotiating compromises and mediating solutions that are acceptable to all parties.

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

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

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

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

Essential preconditions to a dialogue are:

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



*Neighbour asking questions about environmental and health risks.*

## Neighbourhood Dialogues in Germany

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

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

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



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

## Dialogue facilitation at Trecatti Landfill Site, UK

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

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



Trecatti Landfill Site Liaison Group before a site visit.

Key factors for success and best-practice proceedings are:

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

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

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

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

Inspection authorities generally take the lead for initiating dialogue between an

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

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

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

## Mediation in Drogteropslagen, NL

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



Neighbours and experts learn about soil research.

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

## 5. Advantages of dialogues

Dialogues can achieve communication and environmental benefits:

### Building relationships and trust by information sharing and communication

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

### Improving environmental performance without judicial pressure

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



## 6. Assessing uncertainties, risks and limits

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

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

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

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

## 7. Further information

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

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

»Building trust with communities. A toolkit for staff« the six step checklist of the Environment Agency of England and Wales, Bristol, United Kingdom.

Email: [ruth.rush@environment-agency.gov.uk](mailto:ruth.rush@environment-agency.gov.uk)

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

the CLIC decret »Information et concertation du public : Les comités locaux d'information et de concertation CLIC« : [www.ecologie.gouv.fr/article.php?id\\_article=2396](http://www.ecologie.gouv.fr/article.php?id_article=2396)



A typical neighbourhood dialogue meeting at Honeywell Specialty Chemicals Seelze GmbH

## Final recommendations

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

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

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