

IMPLEMENTATION OF UNECE MULTILATERAL ENVIRONMENTAL AGREEMENTS

Draft structure prepared by the secretariat

Introduction

UNECE has negotiated five environmental Conventions, all of which are now in force:

- Convention on Long-range Transboundary Air Pollution;
- Convention on Environmental Impact Assessment in a Transboundary Context;
- Convention on the Protection and Use of Transboundary Watercourses and International Lakes;
- Convention on the Transboundary Effects of Industrial Accidents; and
- Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

These legally binding instruments, as well as their associated protocols, serve as important tools for environmental protection and sustainable development in the UNECE region. While significant progress has been achieved in ratification and implementation, major challenges remain and the beneficial effects of these multilateral environmental agreements (MEAs) are less than optimal, in particular in some subregions. Strengthening the implementation of and compliance with regional environmental conventions and protocols and encouraging efforts to improve their efficiency, effectiveness and coherence are major goals of the “Environment for Europe” process.

The Sixth Ministerial Conference “Environment for Europe” (the Belgrade Conference) is expected to focus on implementation and delivery. The WGSO stressed that the implementation of the UNECE MEAs should be addressed at the Belgrade Conference under the heading of “Assessment and Implementation”. Following the decision of the WGSO at its second meeting in June 2006 to prepare an analytical paper for the Conference on this issue, the secretariat has prepared this note on the possible scope and content of such a report on the implementation of UNECE multilateral environmental agreements.

I. SCOPE

The fifth informal meeting between the representatives of the Bureaux of the CEP and of the governing bodies of the UNECE environmental conventions, held in June 2006, discussed how progress achieved and further strengthening activities for implementing the UNECE MEAs might be addressed at the Belgrade Conference. Following its suggestions the document looks at the cross-cutting issues especially those related to implementation, compliance and capacity building. Furthermore, as recommended at the meeting, the document focuses not only on the obligations arising from the MEAs but also on the incentives they provide for building capacity and sharing good practice, in particular in EECCA and SEE. The document also considers outreach and the sharing of information with other regions of the world.

II. OBJECTIVE

The report uses a cross-cutting approach to provide an overview of a number of major issues, each of which includes assessment of progress achieved, lessons learnt and existing challenges. The problem-oriented analysis is intended to provide a basis for Ministers to identify further policy recommendations and thus give an impetus to national governments to reinforce the implementation of these MEAs.

III. GUIDELINES FOR STRENGTHENING COMPLIANCE WITH AND IMPLEMENTATION OF MULTILATERAL ENVIRONMENTAL AGREEMENTS IN THE UNECE REGION

At the Kiev Conference in 2003, Ministers stressed the urgency of better compliance and implementation of the UNECE MEAs by adopting the Guidelines for Strengthening Compliance with and Implementation of Multilateral Environmental Agreements in the ECE region. These Guidelines identified obstacles to national implementation and compliance, addressed key issues in the development of MEAs, and presented a menu of options for strengthening implementation and compliance of MEAs as well as their reporting. The practical and comprehensive approach applied in the Guidelines continues to make them a useful tool for providing precise and focused guidance, addressing implementation and compliance difficulties, sharing solutions and exchanging experience.

The Kiev Conference decided to support countries with economies in transition, as appropriate, to build their capacities to comply with the obligations arising from MEAs. In this regard, the Guidelines have a key role to play in improving implementation and compliance of MEAs at the national and international level.

IV. CROSS-CUTTING ISSUES

A. Ratification of conventions and their protocols

The expansion of all five UNECE environmental conventions has continued throughout their history. Ratification of conventions and their protocols is an important step in the MEA policy life cycle. The governing bodies of the UNECE

conventions have repeatedly stressed the need for ratification, especially of those protocols adopted most recently.

Progress achieved

This part presents the progress made in the ratification of the UNECE Conventions and their Protocols, highlighting

- (a) Status of instruments entering into force
- (b) Two tables on status of UNECE Conventions and Protocols
 - i) Summary table listing: Instruments (Conventions and Protocols); Adoption date; Number of Signatories; Entry into force date; Number of Signatories ratifying; Number of accessions of non-signatories; Total number of Parties
 - ii) Table listing the status of countries in signing and ratification of Conventions and Protocols

Problems and challenges

- (a) Slower rate of ratification of conventions/protocols despite large numbers of Signatories
 - i) some countries signed long ago but never ratified without providing explanations
 - ii) some countries consistently fail to ratify
 - iii) the negative example of the Protocol on Civil Liability
- (b) Tendency of certain countries to ratify without having necessary changes in legislation or implementation provisions
- (c) Barriers for ratification, e.g. increasing complexity in the obligations, gaps in ratification of the Water Convention in the Caucasus and Central Asia due to political problems
- (d) Challenge from EU enlargement on ratification
 - i) possible impacts on new EU members' ratification of UNECE MEAs in view of EU environmental regulations
 - ii) complementarity of the roles of the EU and UNECE in relation to environmental legislation

Good practice/ lessons learnt

Specific example(s) to showcase good practice or lessons learnt (to be highlighted in boxes as appropriate)

- (a) Example of the Protocol on Water and Health: It took long time to enter into force (6 years) but following this there has been an increase in the ratification rate which is expected to be sustained with the support of the Meeting of the Parties and its future activities.
- (b) Identifiable patterns: Why some countries consistently fail to ratify?
- (c) The divergence between the “ratify first, implementation afterwards” countries and the “implementation first, then ratify” countries
- (d) The production of implementation guides, especially in the Russian language, has been welcomed as an aid to ratification and implementation.

- (e) Complex protocols, such as some under the LRTAP Convention, with technical annexes and those involving collaboration between several ministries may be more difficult to ratify.
- (f) The mechanism of the assistance programme under the Industrial Accident Conventions: assistance in implementing the Convention, which is a means to promote its ratification

B. Importance of political attention to ratification and implementation

(This section might be repositioned as appropriate)

Political will is of vital importance for promoting ratification and implementation of and compliance with the MEAs. There is the need to further demonstrate the value and raise the profile of UNECE conventions and protocols among Governments in order to secure stronger political support and commitment.

Progress achieved

- (a) Enhanced political will and commitment over the years
- (b) Raising political awareness at suitable international forums
- (c) Meetings of the Parties (MoPs), as standing bodies, offer a mechanism to ensure sustainability of political attention and necessary actions
- (d) Visits to ministries by the secretariat or representatives of MEAs can target individuals/issues and raise awareness.
- (e) EPRs are an important tool for raising political awareness of MEAs in the countries reviewed.

Problems and challenges

Despite progress made so far, political attention at the national level is often still insufficient. Actions are needed to raise awareness nationally to ensure sufficiently high priority is given to the process. Specific challenges include

- (a) How to attract political commitments towards ratification and implementation?
- (b) How to translate political will into stronger implementation
- (c) How to gain political support for possible funding
- (d) How to taking advantage of the international awareness raising

Good practice/ lessons learnt

Specific example(s) to showcase good practice or lessons learnt (to be highlighted in boxes as appropriate)

- (a) Involvement of as many countries as possible (including non-Parties to protocols) in protocol review processes to attract political attention and encourage future accession (LRTAP)
- (b) Water cooperation is a highly political issue that can be limited by national interests and unilateral action. Necessity of cooperation is unquestioned in Western parts of the region. Elsewhere cooperation is less established, but there is increasing recognition of the advantages of stable, formalized cooperation.

- (c) Mechanism of the assistance programme under the Industrial Accident Convention: assistance offered to those EECCA and SEE countries which have expressed their commitment at a high level to implement the Convention

C. National implementation, assessment and reporting

The strength of Conventions and their Protocols lies with their successful implementation. Without proper implementation at the national level, these legal instruments will never realize their goals.

Progress achieved

- (a) The Kiev Guidelines still provide an extensive and useful generic checklist of the steps to be considered in implementing a treaty
- (b) Some governments develop national implementation plans to aid implementation
- (c) In some countries there is coordination among different implementing departments and agencies of national governments
- (d) Data collection: cooperation between the conventions and the UNECE Working Group on Environmental Monitoring and Assessment is providing guidance and capacity building for national monitoring in some countries.
- (e) There are reporting mechanisms established, to enable sharing of information on Parties' implementation and policies, analyses of such national reports may be adopted by the Meeting of the Parties and published.

Problems and challenges

- (a) Failure of some Parties to cooperate with reporting mechanisms
- (b) Lack of assessment capacity (data not collected, not shared, not compared to national policies and objectives)
- (c) Encouragement of good quality reporting which allows the most accurate assessment of the situation
- (d) There is a need to strike a balance between a high rate of reporting (preferably 100%) and a reporting format that is sufficiently detailed to provide useful information
- (e) Some countries still fail to coordinate government departments and agencies for effective implementation (For the Water Convention and its protocols, one of the main challenges is the undefined and shared responsibilities within national authorities and the lack of coordination among them.)
- (f) Possible impacts from EU enlargement on implementation, e.g. EU Member States tend to refuse reporting under UNECE conventions, claiming that they are already overwhelmed with EU reporting requests.

Good practice/ lessons learnt

Specific example(s) to showcase good practice or lessons learnt (to be highlighted in boxes as appropriate)

- (a) MEAs can be a major incentive for national coordination between government departments and agencies to address the relevant issues for implementation;

- (b) Example from Espoo
- (c) Under LRTAP there are mandatory requirements for Parties to protocols to report on emissions and on strategies and policies used for implementation;
- (d) The Water Convention: There is no compulsory compliance and reporting mechanism under the Convention but the Parties agreed at their third meeting to prepare for the Belgrade Conference a report on the status of transboundary waters (rivers, lakes and groundwaters in the UNECE region). This will allow the assessment of implementation of the Convention and the progress achieved.)
- (e) Industrial Accident Convention: Reporting is treated as a tool to identify the bottlenecks in implementation rather than to police non-compliance
- (f) Aarhus: 100% of the Parties provided national implementation reports for MOP-2

D. Compliance issues

Progress achieved

- (a) The Kiev Guidelines highlight the common features in compliance mechanisms and procedures
- (b) Compliance mechanisms have been established for most (all?) MEAs through compliance or implementation committees.

Problems and challenges

- (a) Failure of some Parties to cooperate with compliance mechanisms, e.g. by failing to report when requested
- (b) Country specific problems/challenges relating to non-compliance
- (c) The need to develop compliance mechanisms which really identify and address cases of non-compliance
- (d) The need to enhance implementation through compliance mechanisms rather than simply identify non-compliance.

Good practice/ lessons learnt

Specific example(s) to showcase good practice or lessons learnt (to be highlighted in boxes as appropriate)

- (a) Well-considered action by compliance/implementation committees has been shown to increase national awareness and action on implementation of MEAs in many countries. (LRTAP examples)
- (b) Aarhus Convention: The practice whereby a review of compliance may be triggered by communications from the public may merit wider consideration.

E. Capacity-building activities

Progress achieved

Various capacity-building activities have been carried out under the conventions and their protocols to support more effective implementation, particularly in EECCA and SEE. (A brief summary of the outcomes of these capacity-building activities)

Problems and challenges

- (a) Challenges relating to human capacity: enhancing awareness of the obligations arising under the MEAs, deepening understanding of implementation, compliance and reporting mechanisms, addressing language barriers, addressing institutional “volatility”-- trained people do not stay long on their posts
- (b) Challenges relating to institutional capacity: establishing necessary legal and regulatory framework
- (c) Accurate assessment of demands for capacity-building activities

Good practice/ lessons learnt

Specific example(s) to showcase good practice or lessons learnt (to be highlighted in boxes as appropriate)

- (a) Espoo Convention: example on capacity building
- (b) LRTAP: EECCA action plan, CAPACT project, national support activities
- (c) Aarhus Convention: the capacity building coordination framework established
- (d) Industrial Accident Convention: mechanisms of the assistance programme:
 - i) Assistance to implement complex tasks if basis tasks are already in place
 - ii) Capacity building activities provided in areas requested, starting with most demanding to ensure efficient use of scarce financial resources
- (e) Water Convention: assets provided by the project on Capacity for Water Cooperation

F. Financing

Progress achieved

- (a) Financial support provided to EECCA and SEE for capacity building activities
- (b) Established funding mechanisms
 - i) Mandatory contributions, supplemented by voluntary contributions
 - ii) Trust fund and voluntary contributions
 - iii) Establishment of a workplan and identification of a lead country for each activity (regular in-kind contributions)
- (c) In kind contributions given on an ad hoc basis
- (d) International projects as major sources of funding for transboundary water cooperation

Problems and challenges

- (a) Scarce financial resources in governments: problems with lead countries and with voluntary contributions (LRTAP)
- (b) Shortage of contributions: challenges in maintaining current donors and gaining new donors
- (c) Risks of being dependent on external sources of funding such as international projects: progress is not sustainable in the longer term and results achieved may be lost at the end of the projects.
- (d) Maximization of national funding opportunities for capacity-building
- (e) Allocation of more national resources to fulfill commitments under MEAs
- (f) Enhancing fund raising efforts by presenting attractive project proposals to donor countries that meet their expectations and are in line with national strategies

Good practice/ lessons learnt

Specific example(s) to showcase good practice or lessons learnt (to be highlighted in boxes as appropriate)

- (a) Mandatory funding mechanisms are strong and reliable but are currently very difficult to agree
- (b) Trust funds offer much potential for a flexible approach to funding projects and capacity building, but they carry an overhead.

G. Support from, and participation of, the public and other actors in implementation

Progress achieved

- (a) Aarhus Convention: Civil society, mainly in the form of environmental citizens' organizations (ECOs), continues to play an active role in the implementation of the Aarhus Convention. More than one hundred representatives of ECOs participated in MoP-2 (Almaty, May 2005), and ECOs participate actively in each of the subsidiary bodies under the Convention.
- (b) Other UNECE Conventions:
 - i) Provisions in Conventions and/or their Protocols on public participation
 - ii) Progress made in enhancing public participation and creating partnerships with other stakeholders

Problems and challenges

- (a) Cultivation of ownership of MEAs
- (b) Ensuring participation of the most relevant stakeholders
- (c) Wider public participation in implementation at the national level

Good practice/ lessons learnt

Specific example(s) to showcase good practice or lessons learnt (to be highlighted in boxes as appropriate)

- (a) Water Convention: Strong cooperation with other stakeholders (foresters, nature conservation experts and economists) in the development of the rules on the payment of ecosystem services. The potential benefits for all have been a strong driver for such cooperation.
- (b) Aarhus Convention: financial support provided to facilitate the participation of ECO representatives in Convention meetings

H. Coordination and synergies among Conventions and other programmes

Progress achieved

- (a) On the whole, the dialogue and cooperation between the governing bodies of the Conventions have improved over the years and continue to do so. The annual meeting between the Bureaux of the Committee on Environmental Policy and the governing bodies of the UNECE environmental conventions is held to share experiences and find synergies and areas of cooperation to assess and promote the implementation of the environmental legal instruments.
- (b) At the international level, cooperation among relevant agencies and among MEAs with common interests is recognized as important and continues to develop.

Problems and challenges

- (a) At the national level different ministries are involved and coordination between the focal points for different conventions is considered rather weak in some countries. Closer coordination is required for effective implementation of the Conventions.
- (b) There may be limited obvious synergies between instruments so communications between bodies and secretariats may not be easily achieved.
- (c) A challenge to coordination lies in the context of the legal independence of each MEA

I. Outreach to other regions/Sharing information with other regions

Other regions in the world may face similar environmental challenges as those addressed under the UNECE MEAs. The experience and achievements of the conventions could be shared with other regions, particularly in addressing transboundary environmental issues and in assisting them in the development of their own legal instruments.

Progress achieved

- (a) Opening Conventions/Protocols to non-UNECE Parties
- (b) Informal and formal links with other non-UNECE region bodies

Problems and challenges

- (a) Political, social and physical differences between regions
- (b) The need for developing capacity in other regions
- (c) Issue of accession by non-UNECE States

- (d) Negotiation in other regions of their own legal instruments following UNECE examples

Good practice/lessons learnt

Specific example(s) to showcase good practice or lessons learnt (to be highlighted in boxes as appropriate)

- (a) Examples of outreach and collaboration with other regions (LRTAP)
- (b) Examples of “opened” MEAs

V. CONCLUSIONS AND RECOMMENDATIONS

- (a) Member states need to focus political attention to accelerate ratification of MEAs and ensure their full implementation.
- (b) Greater emphasis is required on the means to improve compliance with, and national implementation of, UNECE MEAs; there should be renewed attention to and better application of the Kiev Guidelines for strengthening compliance with and implementation of MEAs in the UNECE region, which were adopted by Ministers at the Kiev Conference.
- (c) MEAs need to develop further their capacity-building activities to promote implementation, in particular in EECCA and SEE and with special focus on human, institutional and financing aspects.
- (d) There is a need to develop more secure financial resources to implement the MEAs.
- (e) MEAs should increase the understanding and ownership of the instruments and develop meaningful and informed public participation in their decision-making processes.
- (f) MEA governing bodies should continue to promote cooperation and synergies among UNECE MEAs as well as with relevant international and regional organizations, in particular with respect to capacity-building activities.
- (g) MEAs should continue to promote their activities outside the region, sharing knowledge and experience especially for the development of other regional agreements.
