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RATIFICATION OF THE CONVENTION AND ITS PROTOCOLS

Note by the secretariat

Introduction

1. The strength of the Convention and its protocols lies with their successful implementation. Unless Parties ratify protocols and fully meet their obligations, the beneficial effects on the environment are severely diminished. The Executive Body has repeatedly stressed the need for ratification, especially of those protocols adopted most recently.
2. This note analyses the development of the Convention and each of its protocols, considers the Parties signing and ratifying them and seeks to identify any trends in their actions, for example, regionally or over time. It also attempts to identify influencing factors and explain why some countries sign or ratify instruments and others do not.

Documents prepared under the auspices or at the request of the Executive Body for the Convention on Long-range Transboundary Air Pollution for GENERAL circulation should be considered provisional unless APPROVED by the Executive Body.

3. For each instrument the analysis considers the original Signatories, for the protocols this is related to the Parties to the Convention at that time. It indicates Signatories that have failed to ratify as well as those Parties to the Convention that have later acceded to protocols (see tables). Special circumstances for protocols are noted and conclusions aim to highlight where additional effort might further enhance the effectiveness of the instruments.

I. THE CONVENTION

4. The Convention and its protocols stipulate that they are open to member States of the Economic Commission for Europe (ECE), as well as States having consultative status with ECE, and by regional economic integration organizations constituted by sovereign States of ECE.

5. Currently, 48 of the 55 ECE member States are Parties to the Convention. The European Community is also a Party as a regional economic integration organization. The Holy See (state with consultative status) and San Marino are both Signatories but have failed to ratify. Recent accessions to the Convention (and their dates of accession) are: Estonia and Kyrgyzstan (2000); Kazakhstan, and Serbia and Montenegro (2001); and Azerbaijan (2002).

6. Of the other six ECE member States not yet Party to the Convention, three are in Central Asia - Tajikistan, Turkmenistan and Uzbekistan. These countries have been involved in subregional ECE initiatives and have indicated at workshops held in the subregion that they have an interest in acceding to the Convention and some of its protocols. The secretariat has communicated with Albanian officials on several occasions in recent years; there have been indications that Albania was ready to move towards accession though changes in government have led to delays. Andorra and Israel (admitted to ECE on a temporary basis in 1991) have shown little interest in accession.

7. The Executive Body may wish to note that some multilateral environmental agreements in ECE are open, either by original design or through amendment, to accession by States from outside ECE, though no such States have taken steps to accede to any convention or protocol.

II. THE EMEP PROTOCOL

8. The EMEP Protocol, the first adopted by Parties to the Convention, has the greatest number of Parties of any of the Convention's protocols (currently 41). The Protocol took just over three years to enter into force from the time of its adoption. All of the original Signatories have ratified and there has been a steady rate of accession by other Parties to the Convention. The rate of ratification/accession was more pronounced up to 1995; there were six ratifications in 1985-1990 and six in 1990-1995 compared with three in 1995-2000 and three after 2000.

9. In general, it is the more recent Parties to the Convention that are not Parties to the Protocol, the following list of non-Parties indicates, in parentheses, the year of accession to the Convention: Armenia (1997); Azerbaijan (2002); Georgia (1999); Kazakhstan (2001); Kyrgyzstan (2002); Republic of Moldova (1995); Serbia and Montenegro (2001); and the former Yugoslav Republic of Macedonia (1997).

10. While the EMEP Protocol is designed for funding the EMEP centres, it may also influence “the geographic scope of EMEP”. This is defined in the Protocol as “the area within which, coordinated by the international centres of EMEP, monitoring is carried out”. A Party contributing to EMEP through the Protocol might reasonably expect the EMEP centres that it is funding to include its monitoring in their coordination work. This may also imply that such countries should be included in the modelling activities of EMEP. With the increasing focus on very long-range transport of air pollutants, the geographic scope of EMEP has increased and is expected to increase further. This may be a further incentive for countries outside the current geographic scope, e.g. in Central Asia, to accede to the Protocol.

III. THE FIRST PROTOCOLS FOR SULPHUR, NITROGEN OXIDES AND VOLATILE ORGANIC COMPOUNDS

11. These three early protocols were adopted at a time of development of the Convention, when the number of its Parties was steadily increasing. Information on the number of Parties, Signatories, etc. to the protocols is presented in table 1.

12. The 1985 Protocol on Sulphur was adopted when there were relatively few Parties to the Convention. In addition, the number of Signatories was limited because some countries did not believe action was scientifically justified whilst others, e.g. those in Southern Europe, were probably not concerned about acidification and sulphur emissions.

13. Even so the Protocol can be seen as a success. It entered into force quickly, all Signatories ratified and it was a simple first step to abate sulphur emissions. Furthermore, all Parties to the Protocol met their obligations (see Implementation Committee report EB.AIR/2003/1) and even some non-Signatories met the 30% target in time.

14. The 1988 Protocol on Nitrogen Oxides appears to have been a fairly popular protocol with almost 90% of the Convention’s Parties signing it (only four did not sign). All Signatories apart from Poland ratified the Protocol and it entered into force fairly quickly. Non-Signatories were a subset of those not signing the 1985 Protocol on Sulphur.

15. However, for a number of reasons a few Parties to the Protocol have had difficulty in meeting their obligations and the Implementation Committee has investigated their cases.

16. The 1991 Protocol on Volatile Organic Compounds (VOCs) seems to have been treated

a little more cautiously by Parties to the Convention. Seven decided not to sign at its adoption and the rate of ratification was much slower than for previous protocols - it took nearly six years for entry into force. In addition, several Signatories have failed to ratify the Protocol and several Parties to the Protocol have had problems meeting their obligations (these have been investigated by the Implementation Committee).

17. There is no clear pattern to help explain why countries failed to sign or failed to ratify the Protocol.

IV. RECENT PROTOCOLS IN FORCE

18. The 1994 Oslo Protocol was the first effects-based protocol and the second protocol to deal with emissions of sulphur. Its complex way of defining targets, setting a separate emission ceiling for each country, may make the process of accession more complicated since only those countries involved in the negotiations have listed targets in the Protocol. Therefore, countries wishing to accede to the Protocol must get proposed targets approved by the Executive Body before accession.

19. The Protocol also has detailed annexes specifying emission limit values for various sources as well as guidance on technologies to be used. Only 28 Parties to the Convention, out of the then 37 Parties, signed the Protocol, and entry into force, despite the greater total number of Parties to the Convention took more than four years (see table 1).

20. The Protocol on Heavy Metals and the Protocol on Persistent Organic Pollutants were developed in parallel and adopted at the same time in 1998. As is usually the case, early ratifications were few but the rate of ratifications for both Protocols remained slow until recently following their entry into force. It took over five years for each of the Protocols to enter into force but both have received several ratifications since that time (see table 2). This increase may indicate a wish of countries to participate fully in the review of the Protocols.

21. It is too early to judge the success of these two Protocols or to estimate the extent to which all Signatories will ratify and non-Signatories will accede. Both Protocols have many Signatories that have not yet ratified, though several delegations to the Executive Body have indicated that their ratification processes are in progress.

V. THE GOTHENBURG PROTOCOL

22. This, the most recent Protocol to the Convention, is also the most complex and ambitious to date. It deals with abatement of emissions of sulphur, oxidized nitrogen, ammonia and VOCs. It sets individual national emission ceilings for each pollutant on the basis of modelling results and subsequent negotiations. The technical annexes to the Protocol are long with much detail; they specify emission limit values to be met as additional obligations.

23. While there are sound scientific reasons for agreeing a single instrument for setting emission controls for several pollutants, such a protocol can pose difficulties for countries attempting ratification. The preparation for ratifying has been long and difficult for many countries since the different pollutant emissions often fall under the responsibility of different ministries and coordinating the necessary national processes has not proved easy.

24. It was nearly two years before the first instrument of ratification was lodged with the United Nations Depository. Since then there have been three ratifications in 2002, three in 2003 and five in 2004. Entry into force is likely in 2005, but with 19 Signatories that have still not ratified there are fears that many of these may not do so in the future (see table 2).

VI. CONCLUSIONS

25. The expansion of the Convention across the ECE region has continued throughout its history. Today there are few member States that are not Parties and many of these have expressed an interest in accession.

26. The first Protocol, for funding EMEP, has proved very successful. It provides a stable basis for the EMEP scientific work that is essential for the Convention (as well as a resource used by other bodies and organizations). The increasing number of its Parties may bring pressure to expand the EMEP monitoring and modelling domains.

27. The next two Protocols were relatively simple and had small numbers of Signatories, but they quickly entered into force and a vast majority of Signatories ratified. Only the Protocol on Nitrogen Oxides has encountered some implementation problems.

28. Subsequent protocols have not proved as successful. Since 1990 there has been:

(a) An increasing complexity in the obligations of the protocols (though the 1994 Oslo Protocol has shorter annexes than the 1991 Protocol on VOCs);

(b) An increasing number of Parties to the Convention, though the number of ratifications for a protocol to enter into force has remained at 16;

(c) A slower rate of ratification of protocols despite larger numbers of Signatories;

(d) A continuing small number of countries not signing protocols. Some may seem remote from activities in Europe and North America, e.g. Iceland, some have significant territories outside of Europe, e.g. Turkey, and some are countries with economies in transition, e.g. Belarus, Bosnia and Herzegovina;

(e) An increasing tendency for Signatories not to ratify protocols quickly. It is difficult to judge the extent of this with the three most recent protocols but slow rates of

ratifications to date give cause for concern.

29. The lack of action by non-Parties and Signatories may suggest that measures for controlling emissions are not being taken and that the environmental benefits envisaged during negotiations are not taking place. The Executive Body may wish to gain a better understanding of the barriers to signature and ratification prior to taking decisions on the further development and negotiation of new or revised instruments.

Table 1

Status of the 1985 – 1994 protocols

| | Current number of Parties | Months between adoption and entry into force | Number of Signatories (Convention Parties; Signatories as a per cent of Convention Parties) | Convention Parties not signing | Signatories that have not ratified | Accessions |
|---|---------------------------|--|---|---|--|---|
| 1985 Protocol on Sulphur | 22 | 26 | 19 (28; 68%) | Greece, Iceland, Ireland, Portugal, Spain, Turkey, United Kingdom, European Community | None | Czech Republic (1993), Estonia (2000), Slovakia (1993) |
| 1988 Protocol on Nitrogen Oxides | 28 | 27 | 25 (29; 86%) | Iceland, Portugal, Turkey, European Community | Poland | Czech Republic (1993), Estonia (2000), Slovakia (1993) |
| 1991 Protocol on Volatile Organic Compounds | 21 | 70 | 23 (30; 77%) | Belarus, Iceland, Ireland, Poland, Romania, Russian Federation, Turkey | Canada, Greece, Portugal, Ukraine, United States, European Community | Czech Republic (1997), Estonia (2000), Monaco (2001), Slovakia (1999) |
| 1994 Protocol on Sulphur | 25 | 50 | 28 (37; 76%) | Belarus, Bosnia and Herzegovina, Cyprus, Iceland, Lithuania, Portugal, Romania, Turkey, United States | Bulgaria, Portugal, Russian Federation, Ukraine | Monaco (2002) |

Table 2

Status of recent protocols

| | Current number of Parties | Months between adoption and entry into force | Number of Signatories (Convention Parties; Signatories as a per cent of Convention Parties) | Convention Parties not signing | Signatories that have not ratified | Accessions |
|--|---------------------------|---|---|---|--|---------------------------|
| 1998 Protocol on Heavy Metals | 22 | 66 | 36 (42; 86%) | Belarus, Bosnia and Herzegovina, Malta, Russian Federation, the former Yugoslav Republic of Macedonia, Turkey | Armenia, Belgium, Croatia, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Poland, Portugal, Spain, Ukraine, United Kingdom | Monaco (2003) |
| 1998 Protocol on Persistent Organic Pollutants | 21 | 64 | 36 (42; 86%) | Belarus, Bosnia and Herzegovina, Malta, Russian Federation, the former Yugoslav Republic of Macedonia, Turkey | Armenia, Belgium, Croatia, Greece, Ireland, Italy, Latvia, Lithuania, Poland, Portugal, Slovenia, Spain, Ukraine, United Kingdom, United States | None |
| 1999 Gothenburg Protocol | 12 | Not yet in force (60 months have passed since adoption in December 2004) | 31 (44; 70%) | Belarus, Bosnia and Herzegovina, Cyprus, Georgia, Iceland, Malta, Monaco, Russian Federation, Serbia and Montenegro, the former Yugoslav Republic of Macedonia, Turkey, Ukraine, European Community | Armenia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, France, Germany, Greece, Hungary, Ireland, Italy, Liechtenstein, Poland, Portugal, Republic of Moldova, Slovakia, Spain, Switzerland, United Kingdom, United States | European Community (2003) |