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REVIEW OF THE PROGRAMME OF WORK FOR 2007-2008

**THE COMMITTEE'S CONTRIBUTION TO THE "ENVIRONMENT FOR EUROPE"
CONFERENCE**

**IMPLEMENTATION OF
UNECE MULTILATERAL ENVIRONMENTAL AGREEMENTS**

Note by the secretariat¹

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¹ This document is based upon a text prepared for the fifth meeting of the Executive Committee of the Working Group of Senior Officials. The text has been redrafted in line with comments received at that time.
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Introduction

1. UNECE's five environmental conventions² form a cornerstone for UNECE international environmental policy and the basis for many national actions to protect man and his environment and aid sustainable development in the region. The conventions and their associated protocols can claim much success – many UNECE member States are party to the instruments and share in their benefits.

2. Even so, ministers at the fifth Ministerial Conference “Environment for Europe” in Kiev (2003) stressed that “greater emphasis should be placed on compliance with and national implementation of these instruments” (Ministerial Declaration, ECE/CEP/94/Rev.1, para. 18). Their Ministerial Declaration also drew attention to the needs of several individual multilateral environmental agreements (MEAs)³ for States to better implement their provisions and/or promote speedy ratification.

3. Yet even today, the governing bodies of the conventions agree that further implementation of the MEAs is needed. Many countries are still not party to agreements that are relevant for them, while some that are Parties fall short in honouring their obligations.

4. Ministers at Kiev endorsed (ECE/CEP/94/Rev.1, para. 43) Guidelines for Strengthening Compliance with and Implementation of Multilateral Environmental Agreements in the ECE Region (ECE/CEP/107), the so-called *Kiev Guidelines*, as an important tool to strengthen compliance with and implementation of regional environmental conventions and protocols. The *Kiev Guidelines* identified obstacles to national implementation and compliance, addressed key

² The Convention on Long-range Transboundary Air Pollution (LRTAP Convention), the Convention on Environmental Impact Assessment in a Transboundary Context (EIA Convention); the Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Water Convention); the Convention on the Transboundary Effects of Industrial Accidents (IA Convention), and the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention).

³ In Kiev, Ministers adopting the Protocol on Strategic Environmental Assessment, the Protocol on Civil Liability and the Protocol on Pollutant Release and Transfer Registers invited all eligible States to become parties to these instruments, and all interested UNECE States that had not yet ratified or acceded to the Conventions to do so at the earliest opportunities.

issues in the development of MEAs, and presented a menu of options for strengthening implementation of and compliance with MEAs as well as their reporting. The practical and comprehensive approach applied in the *Kiev Guidelines* continues to make them a useful tool for providing precise and focused guidance, addressing implementation and compliance difficulties, sharing solutions and exchanging experience.

5. This report was prepared at the request of the Working Group of Senior Officials at its second meeting (ECE/CEP/AC.11/2006/2, para. 22) in collaboration with the Bureaux of the governing bodies of the five conventions and the Bureau of the Committee on Environmental Policy. It aims to reflect the views of all UNECE MEAs and focuses in particular on national implementation (section I) and what member States need to do to promote this; such considerations might be thought of as a “bottom-up” approach to implementation. Section I notes past successes, obstacles and lessons learned to help describe the current situation and provide pointers to future action. The *Kiev Guidelines* are used to illustrate agreed approaches and mechanisms for such implementation at the national level.

6. The document also summarizes some of the mechanisms and procedures used by the MEAs to implement their provisions (section II) – a “top-down” perspective on implementation.

7. Finally, in section III, a series of conclusions and recommendations, based upon the issues described in sections I and II, summarize the current situation and suggest possible actions for the future.

8. The Executive Summary of the paper is included in document ECE/CEP/AC.11/2007/4.

I. NATIONAL IMPLEMENTATION

9. The strength of conventions and their protocols lies with their successful implementation at the national level. The *Kiev Guidelines* provide an extensive and useful generic checklist of the steps to be considered in implementing a treaty, and, using the *Guidelines*, governments may develop their own national implementation plans. Although preparing such plans may not be a formal requirement under any of the legal instruments, countries may use them as a step towards ratification and implementation. Such national action throughout all UNECE member States is a prerequisite for full implementation across the region.

A. Ratification of MEAs – an indicator of national implementation

10. One indicator of national implementation is when a State becomes a Party to a MEA (by ratification or accession); such States agree to comply with obligations under the instrument. The *Kiev Guidelines* note that all legal and other appropriate measures required to implement an MEA should be in place prior to ratification, to ensure that a Party is in a position to comply with its international obligations at the time of entry into force of the MEA for that Party. However, it is recognized that not all States do this. In addition, there may be States that choose to implement provisions of a MEA without ratifying it. Even so, ratification is a useful simple indicator for demonstrating implementation (see the table “Ratification of conventions and protocols in different UNECE subregions” at the end of this document).

11. Based simply on ratifications, the five conventions can demonstrate successful implementation by a majority of UNECE member States; the LRTAP Convention has 51 Parties, the EIA Convention 41 Parties, the Aarhus Convention 41 Parties, the IA Convention 35 Parties and the Water Convention 35 Parties. The European Community (EC), as a regional economic integration organization, is a Party to all five conventions.

12. The ratification indicator can also be applied to the protocols to the conventions (see table). Here the numbers of Parties to the instruments suggest that implementation is not so effective. Rates of ratification are often slow and the current numbers of Parties are usually far fewer than for the conventions.

13. Important information can be gained from considering those countries that have failed to ratify or accede to either the conventions or their protocols. While individual national reasons for failure to ratify may vary (see the *Kiev Guidelines*), the geographic patterns of non-Parties can provide an indication of more widespread, generic problems that merit further investigation.

14. For example, it is clear that most European Union (EU) Member States are Parties to all five conventions and to many of their protocols, but there are far fewer Parties in South-Eastern Europe (SEE) and in Eastern Europe, Caucasus and Central Asia (EECCA). For some conventions, it is clear that EECCA and SEE countries more readily accede to the conventions than to the protocols, which often have more specific obligations.

15. It is of particular concern that those countries that might benefit most from being party to conventions and protocols have not ratified them. Possible reasons are listed in the *Kiev Guidelines* (para. 5) and include a lack of political commitment, a lack of awareness of the obligations, a lack of technical, administrative and financial capacity, a lack of coordination among relevant national authorities, and other obstacles to national implementation and compliance. The lack of political commitment is of special concern and may be an increasing factor in some countries; without political commitment it may be difficult to address other shortfalls.

16. Another issue is the rate of ratification of the instruments. Some early, simple protocols of the LRTAP Convention were ratified quickly and soon entered into force. More recently, it has become evident that the Convention's more complex protocols, which have technical obligations and may involve several government departments (e.g. the 1999 Protocol to Abate Acidification, Eutrophication and Ground-level Ozone, or Gothenburg Protocol), are proving a challenge for all countries and too much of a challenge for some with economies in transition.

17. The *Kiev Guidelines* (para. 6) also provide useful guidance to address the above problems, but this should be done by the conventions at an early stage – for example, when drafting the agreement or deciding on the mechanisms for its implementation. Governing bodies of the conventions should learn from past mistakes and apply the *Kiev Guidelines* in their future work.

18. Ministers at the Kiev Conference signed three new protocols: the Protocol on Strategic Environmental Assessment (SEA) to the EIA Convention; the Protocol on Pollutant Release and Transfer Registers (PRTRs) to the Aarhus Convention; and the Protocol on Civil Liability under the Water Convention and the IA Convention. It is of great concern that very few Signatories

have ratified these instruments to date. However, it is not unusual for even the most diligent country to take three or four years to complete its ratification process. So, for example, the Protocol on Water and Health took more than six years to enter into force, but since then the ratification rate has increased significantly.

19. Finally, as is noted in paragraph 9 above, there has been a tendency for some countries to ratify the conventions/protocols without having in place the necessary changes in legislation or implementation provisions (see *Kiev Guidelines*, section III). The benefit of such action has been to put pressure on the governments and parliaments of such Parties to adopt the necessary implementing measures, as well as enhancing possibilities for receiving technical assistance, which may only be possible once a State becomes a Party. However, it seems that most countries are now abandoning this practice and do not proceed with ratification until they have fully prepared for implementation. This may result in a slower rate of ratification, but it also leads to a better assessment of implementation when considering ratification as an indicator.

B. Achievements in national implementation

20. Publications/reports on the status of national implementation of the conventions show their increasing application by increasing numbers of Parties in the UNECE region. The majority of Parties have introduced adequate legislative frameworks for proper implementation of the provisions of the conventions. Where necessary, most Parties have designated competent authorities/points of contact (e.g. the EIA Convention and the IA Convention) and have engaged in bi- or multilateral cooperation (IA Convention, EIA Convention, Water Convention).

21. Overall targets for the region for most pollutants covered by protocols to the LRTAP Convention are being met, and most Parties to the protocols are meeting their individual obligations; indeed, some are achieving much more than the set targets through effective national action. Emissions of all pollutants covered by the protocols have declined, and recovery from environmental effects, such as acidification, is now being observed. Only a few Parties have been identified as failing to meet the requirements they have signed up to.

22. The Parties to the IA Convention are making further progress with identification and notification of hazardous activities. However, this is not always the case in EECCA and SEE, where there are problems of proper identification and notification as well as in meeting the specific requirements of the Convention.

23. Across all parts of the UNECE region, Parties to the Aarhus Convention show commitment to its implementation (through ratification), though the level of implementation does vary across the region. This may depend, *inter alia*, upon countries' legal traditions and experiences in democratic governance. According to the legal traditions of EU and other West European countries, and as recommended in the *Kiev Guidelines*, international instruments are generally ratified only after national laws and regulations have been introduced to implement them. However, this may not be so in other parts of the region, and this may, as is noted in paragraph 9 above, affect relative rates of ratification.

24. The legislative measures being taken by the EC to prepare for ratification of MEAs have been a significant driving force for ratification for EU countries and EU accession countries. For the Aarhus Convention, such measures cover comprehensively the implementation of the

Convention's access to information and public participation pillars, as well as the related access to justice. Overall Parties have had least problems in implementing access-to-information provisions, though in EECCA and SEE there remain important obstacles to implementing measures for handling information requests.

25. The Water Convention has played a crucial role in the region to support the establishment and strengthening of cooperation. Most of the agreements negotiated since the break-up of the Soviet Union, with the creation of new transboundary waters, are modelled on the Convention. EECCA countries have revised or updated water legislation and regulatory instruments during the past decade, which has led to important improvements in line with recent international developments. Further assessment is planned through a report on the status of the transboundary waters in the UNECE region.

C. Challenges to national implementation and lessons learned

26. Despite the apparent commitment, there are weaknesses and problems in the conventions' implementation in certain countries. (Some examples have already been noted above.) Reports and publications highlight specific difficulties for implementation, such as the access to justice pillar of the Aarhus Convention, the application of appropriate preventive measures under the IA Convention or the setting up of river basin management structures under the Water Convention. Such problems may relate to a number of difficulties, and the *Kiev Guidelines* (para. 5) list many such obstacles to national implementation and compliance. Some typical issues often encountered in relation to individual conventions are considered below.

Legislative framework

27. In a number of countries of EECCA and SEE, work to build adequate legal and institutional frameworks to implement the provisions of the conventions is insufficiently advanced.

28. Concerning industrial accidents, many countries have in place a legal framework for preventing and responding to emergencies, including industrial accidents. This is, however, not the case for some EECCA and SEE countries whose legislation does not always meet all the requirements of the IA Convention. As a consequence, implementation may fall short especially on measures to prevent accidents and prepare for emergencies, as well as on ensuring effective cooperation. A few countries of EECCA and SEE have therefore requested advice to assess or help them improve legislation.

29. For the Aarhus Convention, most EECCA countries report that, according to their national constitutions, the provisions of the Convention are part of their national legal systems. Some countries have commented that they were directly applicable. A few have noted that the Convention's provisions took precedence over national laws. Some have indicated that, as a consequence, implementing legislation did not have to be introduced, or they have failed to demonstrate having taken any legislative measures as required by the Convention (article 3, para. 1). Here the challenge is to guarantee that the principles included in those national constitutions or direct application of the Convention do, in practice, ensure the implementation of the requirements of the Convention.

30. Despite progress, regulatory reforms in the field of water are far from complete in EECCA countries and have resulted in some gaps and contradictions between new laws, decrees, codes and regulations. Many former Soviet Union regulation documents are still in force, so it is not always clear which regulations apply in a specific case. There is a particular problem in assessing transboundary waters, which arises from the widely used “maximum permitted concentrations of pollutants for a specific water use” (MPC) or water quality standards that seem more stringent than water quality criteria and objectives used elsewhere in the UNECE region. It is often impossible to comply with these norms, whether owing to the lack of appropriate measuring devices or because financial and human resources are lacking or sometimes because they are not economically feasible or realistic. The experience of other countries, particularly those applying the Water Framework Directive, suggests that future assessments should be based on water quality or ecologically based objectives, rather than MPC values. However, it is not easy for EECCA countries to amend their national legislation in the short term.

Institutional framework: coordination and cooperation between competent national authorities

31. It appears that many countries struggle to coordinate government departments and agencies for effective implementation. For the LRTAP Convention, emissions from agriculture, transport, industry and energy must be considered together in meeting the obligations under the Gothenburg Protocol. This presents major challenges for some countries, though bringing the various sectors together has shown that a strongly integrated approach is a powerful way of dealing with such complex problems.

32. For the Water Convention, one of the main challenges is the undefined, shared responsibilities within national authorities and the lack of coordination between them. In EECCA, the ongoing reform of ministerial environmental departments and water agencies is an opportunity to harmonize responsibilities for water management and improve cooperation among entities involved in monitoring and assessment, including new partners (e.g. the research community and academia), and to designate appropriate institutions to supervise, guide and contribute to monitoring and assessment. On the other hand, a never-ending reform of institutions and their responsibilities and assignments could seriously hamper the continuity and sustainability of cooperation and the implementation of the Water Convention.

33. For the Aarhus Convention, with respect to the methods used for introducing necessary legislative, regulatory and other measures, several EECCA countries reported on the existence of national implementation plans and the creation of special working groups. As expected, ministries of environment were lead authorities in promoting implementation efforts, and they have sought to involve other public authorities, for instance, by creating inter-ministerial groups. However, two major obstacles for the implementation of the Convention are: (a) poor implementation by public authorities at the local and provincial levels; and (b) poor implementation by public authorities other than ministries of environment.

34. Successful implementation of the IA Convention requires “vertical” cooperation and coordination between national authorities and local authorities as well as with industry and the public. Equally important is the “horizontal” cooperation and coordination between authorities involved in implementing specific parts of the Convention. For EECCA and SEE countries especially, further improvements in cooperation are needed between national authorities;

between national, regional and local authorities; and with industry. For these countries capacity-building activities relating to adequate institutional frameworks are important; without them, further capacity-building and advisory activities under the Assistance Programme for EECCA countries (see para. 68) will not bring the expected benefits.

Obsolete technology

35. Obsolete technology in the industries of the EECCA and SEE countries is an obstacle for implementation of the IA and LRTAP Conventions in particular. Many industrial facilities in these countries are not modernized and still use obsolete and polluting technologies, sometimes in outdated and poorly maintained installations. The level of risk at such installations is already high and will probably grow with any increased use of capacity. To make matters worse, any industrial accident would affect both human health and the environment in an already vulnerable society.

Funding

36. Insufficient domestic funding, in particular in EECCA and SEE countries, is a major barrier to implementing the UNECE MEAs. Many activities are resource limited, and more effective funding in targeted areas could lead to major improvements in implementation. For example, most EECCA and SEE countries have difficulties under the IA Convention in responding to emergencies, including operation of points of contact in the UNECE Industrial Accidents Notification System. This is mainly due to insufficient and unstable funds for equipment and personnel training.

37. All conventions using monitoring for their implementation suffer from lack of monitoring stations in some regions. Among the reasons given for the decline of water monitoring and assessment activities in the early 1990s were poor or outdated monitoring equipment, lack of spare parts, inadequate laboratory devices, a worsening situation regarding sampling and sample transport from remote stations, and loss of qualified staff. Foreign assistance programmes, as well as increased allocations from national budgets, are beginning to address these problems.

38. Substantial costs are involved in translation of documentation for the EIA Convention. Given the difficulties regarding the many languages used across the region, there remains a lack of bilateral and multilateral agreements between Parties to address, in particular, what documents should be translated into local languages, who should translate them and who should cover the costs.

39. Regarding the access to justice pillar of the Aarhus Convention, in some countries costs are too high for citizens to bring cases to court and there is a need for pro bono legal services.

Public participation

40. The Aarhus Convention was established to improve public participation in decision-making and to make environmental information more publicly available. The implementation of the public participation pillar of the Aarhus Convention appears to be less advanced than the implementation of the access to information pillar. Problems noted by countries include the lack

of uniform regulations on environmental impact assessment and a culture of resistance to public participation generally.

41. The other four conventions have also shown a trend, both in the texts of their recent protocols and in the actions of their governing bodies, towards encouraging their Parties to develop public participation and make environmental information available to the public. While this is a challenge to some, websites and publications of the conventions and their Parties illustrate some success.

42. The EIA Convention has found that the public in concerned Parties was not encouraged sufficiently to participate in the procedures provided under the Convention.

43. For the IA Convention, the provision of information to the public and public participation in decision-making related to hazardous activities (e.g. in drawing up off-site contingency plans) are essential. But provisions are inadequate in some EECCA and SEE countries; some countries have requested training in this area, which is linked to prevention of, preparedness for and response to industrial accidents.

Involvement of non-Parties in conventions' activities

44. There are clear benefits from involving potential parties in the activities under the UNECE conventions and protocols: for example, involvement increases the likelihood of accession. Some conventions have mechanisms to involve non-Parties in their work: for example, the IA Convention's international Assistance Programme (see para. 68) is open to non-Parties.

45. The LRTAP Convention convenes meetings of its protocol Parties at meetings of the Parties to the Convention to ensure that all countries involved with the Convention take part in discussions and review processes, even for instruments to which they are not party. Several conventions have implementation manuals to provide guidance to implementation and ratification by non-Parties.

46. Under the Water Convention, non-Parties are also invited to participate in the work of the Convention bodies.

II. MECHANISM AND PROCEDURES TO PROMOTE IMPLEMENTATION

47. The mechanism and procedures used by MEA bodies to implement the instruments can have a marked effect on the level of national implementation. This complement to the activities under a convention may be defined and governed by the legal text itself, or may be developed in parallel or following adoption of the instrument. It is an area where Parties collectively implement and develop the MEAs through their own experience and knowledge of practices in other forums. The sections below deal with the various issues, some of which are also described in the *Kiev Guidelines*.

A. Reporting

48. The *Kiev Guidelines* stress the importance of reporting information for the effective functioning of MEAs and contain specific suggestions for improving the reporting process.

49. Whether or not they contain specific provisions on reporting, all UNECE conventions have established systems for regularly collecting information and using it for reviewing implementation and compliance and/or for general information. The LRTAP Convention, the Aarhus Convention, the EIA Convention and the IA Convention collect information on implementation through regular questionnaires sent to Parties. The Water Convention uses tailor-made questionnaires for specific purposes as agreed in its workplan. Much of the information is subsequently published. Scientific and technical data (e.g. on emissions and water quality) are also collected under the LRTAP and Water Conventions.

50. Much progress has been made in improving the focus and clarity of questionnaires as well as facilitating their completion through using the Internet and electronic forms. Parties are playing an active role in preparing questions, and the conventions are learning through experience.

51. As a result both the numbers of countries reporting and the proportion of good-quality reports have increased. The reports often contain a wealth of information on the status of implementation of the conventions and their protocols, and Parties have showed enthusiasm for sharing this information with the outside world.

52. Parties to several conventions have highlighted the burden of reporting, especially where similar data and information are being reported to more than one body or instrument. Electronic reporting has done much to ease the burden, and data reporting has been harmonized as far as possible with other reporting regimes. For example, LRTAP Convention emission data reporting is largely consistent with reporting under the United Nations Framework Convention on Climate Change and the EU reporting system.

53. Despite successes achieved, problems remain:

(a) Some Parties still fail to report. This makes assessment of their implementation impossible. As a result, conclusions drawn in a review of implementation of a convention may not represent all Parties.

(b) Parties often report late. Late submission of reports restricts the possibility for making a detailed and exhaustive examination of the replies and/or seeking clarification from Parties before producing a report on the status of implementation.

(c) The quality of reporting is sometimes poor. Both substance and length may be a problem. Lack of relevant information or lack of precision in answers to specific questions can lead to confusion and uncertainty. In particular, there is a tendency for EU countries to simply refer to EU directives without providing a clear description of how their national legislation meets MEA requirements.

54. The *Kiev Guidelines* provide useful pointers to improve the quality and effectiveness of reporting. Conventions in recent years have made use of several of the suggestions in the *Guidelines*, such as the use of electronic and Internet-based questionnaires as indicated above. Even so, there is still a need to use the *Guidelines* to ensure, for example, that deadlines set are realistic and that reporting requirements are harmonized with demands from other quarters.

55. It is important to recognize the problems with data collection and storage in some countries, especially those in EECCA and SEE. This may influence development of reporting procedures or necessitate the use of alternative options (e.g. e-mail instead of the Internet) or the development of assistance programmes (e.g. training or bilateral assistance).

B. Compliance

56. Formal mechanisms for review of compliance, and committees to carry out the reviews, have operated for several years under the LRTAP Convention, the EIA Convention and the Aarhus Convention, and are being established for the Protocol on Water and Health under the Water Convention.

57. Cases of possible non-compliance can be referred by a Party about itself, by a Party about another Party, by the secretariat (in the case of the LRTAP Convention) or by the compliance committee itself (in the case of the EIA Convention). Under the Aarhus Convention, members of the public can also communicate cases of possible non-compliance.

58. The existence of compliance regimes has increased awareness of and action on national implementation of MEAs. In addition to addressing individual cases of non-compliance, they can enhance the implementation of the conventions in general.

59. Even so, some lessons learned help focus on issues that might make compliance regimes more effective, including:

(a) *Ensuring effective communication/dialogue with non-complying Parties.* There are widely ranging attitudes to the work of the compliance committees; some Parties engage fully in communications while, at the other extreme, others communicate only under severe pressure.

(b) *Ensuring reporting requirements are met.* If inadequate information is reported, compliance mechanisms are unable to judge effective implementation (though they can identify failure to report as non-compliance if reporting is mandatory).

(c) *Selecting measures to encourage Parties to meet their obligations.* Usually options are limited. Imposing sanctions is likely to be counter-productive, so emphasis is placed upon encouragement and support to help Parties meet their obligations. While “naming and shaming” can be effective, various ways of doing this (e.g. at convention meetings or publicly) may provide a range of options with different strengths of persuasion. The LRTAP Convention has developed options through its formal decisions on non-compliance; an initial option has been to invite a Party in non-compliance to provide information to assist the Implementation Committee in its work, while the most stringent option used so far has been to request a Party in non-compliance to make a presentation to the Executive Body (Meeting of the Parties) to explain what it is doing to achieve compliance.

C. Funding

60. While the regular United Nations budget provides some secretariat and meeting facilities for the conventions, the Parties finance most of their activities either through cash contributions or in kind.

61. Only the LRTAP Convention has a mandatory funding instrument (for its EMEP⁴ programme); Parties to the EMEP Protocol contribute to financing the EMEP centres, which coordinate data collection and modelling, according to the UN scale of assessment.

62. All conventions operate United Nations trust funds to handle cash contributions made by Parties. Very often such contributions are earmarked for specific activities under the convention, though sometimes un-earmarked contributions are made that can be used for convention work as specified by the workplan or agreed budget and in agreement with the terms of the respective trust fund.

63. The conventions differ in the ways they attempt to achieve the financial targets of their trust funds. The LRTAP Convention uses the United Nations scale of assessment for two of its trust funds, while the EIA Convention and the Aarhus Convention divide their activities and budgets into shares and invite Parties to pay one or more of these on a voluntary basis. The IA Convention operates a similar system where the Conference of the Parties decides on a two-year workplan and its resource requirements; Parties are invited to make financial and in-kind contributions on a voluntary basis to implement the planned activities.

64. While there is no doubt that many Parties contribute significant amounts, either in cash or in kind, to the successful implementation of the conventions, there are still major shortfalls, and some work suffers, or does not proceed, because of lack of funding. Experience from the conventions has shown the following:

(a) Insufficient levels of funding – whether based on the UN scale of assessments or not, voluntary financial contributions rarely cover 100% of the resource requirements, and frequently are just a small proportion of the budget, so not all activities in workplans are implemented.

(b) Unfair sharing of the burden – where voluntary financing arrangements are not based on the United Nations scale of assessments, there is usually unfair sharing of the burden between a few donors.

(c) Irregular payment of the contributions – Parties often pay annual contributions after the activities should have been carried out.

(d) Mandatory funding mechanisms – these are strong and reliable but very difficult to agree.

⁴ Cooperative Programme for Monitoring and Evaluation of the Long-range Transmission of Air Pollution in Europe.

(e) United Nations trust funds offer much potential and flexibility for funding, but they carry an overhead (currently 13%).

(f) Where voluntary arrangements cannot ensure stable, long-term and predictable financing, good prioritization of workplan items can ensure that core activities are implemented.

(g) In-kind contributions (e.g. by leading task forces or hosting workshops) are essential for effective implementation.

D. Capacity-building

65. The vast majority of EECCA and SEE countries are faced with insufficient institutional frameworks, limited human resources capacities and scarce financial resources, though the economic situation overall has improved in most countries in recent years. Parties to all conventions have realized that without assistance these countries will not be able to build the capacity needed for effective implementation of the conventions. There are capacity-building activities under all conventions, sometimes organized in consolidated programmes.

66. The LRTAP Convention has an action plan to support implementation in EECCA countries, which it has extended to SEE. It is also preparing, with donor assistance, implementation manuals for the three most recent protocols in English and Russian. A three-year United Nations Development Account-funded project CAPACT (Capacity Building for Air Quality Management and the Application of Clean Coal Combustion Technologies in Central Asia) has developed a national implementation plan for Kazakhstan and provided training workshops for Central Asian experts. The workshops have been extended EECCA-wide with donor support.

67. The Water Convention's objective to help EECCA countries address the subregion's problems and strengthen capacity in integrated river basin management and water protection is being tackled through the Capacity for Water Cooperation (CWC) project. The project created a framework for cross-fertilization and exchange of experience between river basin organizations (including joint bodies) and countries on regulatory, institutional, methodological and other aspects of integrated management of transboundary waters. It brought in experience from other parts of UNECE and established a network of EECCA experts involved in transboundary water management cooperation. The project's rationale and approach have proven successful and have been replicated in SEE by the International Waters Learning Exchange and Resource Network.

68. The EIA Convention includes some capacity-building activities for EECCA countries: providing guidance information on the practical application of the Convention in the subregion; regional workshops and active dissemination of the guidance; training courses; supporting knowledge of the Convention environmental impact assessment in Russian; and dissemination of a Russian-language journal. A more comprehensive approach is taken for the Convention's SEA Protocol. The Resource Manual to Support Application of the Protocol contains a trainer's guide to highlight a proper approach for the effectiveness of capacity-development and sets a capacity-development framework for SEA. An initiative in 2003–2006 by the United Nations Development Programme (UNDP), the Regional Centre for Central and Eastern Europe (REC) and UNECE used the framework and highlighted fundamental challenges and opportunities for

national SEA systems. However, one initiative was unlikely to raise the capacities in a country or a region significantly and should be seen as a start-up.

69. The IA Convention has an Assistance Programme for EECCA countries to enhance their efforts in implementing the Convention (ECE/CP.TEIA/12, annex I, decision 2004/1). The Programme identifies basic tasks to be undertaken by the countries themselves and the external assistance that can be offered. Fact-finding teams visit the recipient countries to verify the implementation of the basic tasks and to identify individual needs for external assistance. The mechanism of the Assistance Programme ensures that countries prepare for receiving assistance in complex areas by implementing simple tasks; experience shows the approach is efficient and successful.

70. The Aarhus Convention has a capacity-building framework to streamline and rationalize capacity-building activities and promote synergies. It involves some of the main international organizations involved under the Convention, such as the United Nations Environment Programme (UNEP), UNDP, the United Nations Institute for Training and Research (UNITAR), the Organization for Security and Co-operation in Europe (OSCE), REC and the Regional Centre for Central Asia (CAREC). The secretariat convenes annual meetings to coordinate major capacity-building initiatives and has gathered further information through a survey of projects and programmes implemented to assist review and assessment of capacity-building initiatives and identify resources (e.g. materials, staff) that might become available. It has also identified lessons learned from project implementation and any further assistance needed. The Convention's National Profiles programme demonstrates that in some countries a comprehensive analysis of the national legislation was a prerequisite for ratifying the Convention. In others, especially in EECCA, direct application of an international treaty often replaces detailed analysis and legal approximation, which may lead to lack of compliance. In 2003, UNECE and UNITAR developed a pilot programme to help countries prepare national profiles to assess capacity to implement the Convention. This provides a multi-stakeholder process for assessing national capacities and needs, and national profiles have been developed in two pilot countries.

71. Capacity-building is seen as an important activity in all five conventions. Much has been learned through experience, but resources are limited and there is much to do. It is particularly relevant to:

(a) Recognize that a systematic approach to identifying capacity needs is a priority. Recipient Parties should structure and prioritize their short-term and long-term needs and be seen to have national ownership. While coordinated by the national government, the process should involve all stakeholders.

(b) Emphasize that countries with capacity constraints should take on the responsibility for making the necessary changes required to comply with international obligations as well as enforcing their domestic legislation. This may include the allocation of resources, both human and financial.

(c) Ensure that capacity-building is systematic rather than sporadic. It requires in-depth assessment to identify needs, gaps and constraints, and then to define priorities and actions. Coordinating the process within a country avoids overlaps and addresses priorities.

(d) Acknowledge that public officials are often overburdened, especially at the national level. A structured and systematic approach to capacity-building developed inside the country, which is taken into account by implementing agencies and donor institutions, helps build synergies between the capacity-building activities and avoids duplication.

(e) Understand that a long-term dialogue between countries and the secretariats, including concrete and consistent follow-up of projects, is important for effective capacity-building, especially for developing and making use of expertise. Experts and trainers from the capacity-building region should be used where possible. This provides exchange of experience within and between the subregions and continuity of capacity-building initiatives.

E. Synergies with other international programmes and outreach

72. We know that other regions in the world face environmental challenges similar to those of UNECE, and several conventions have links with organizations in other regions or are linked to global initiatives with common interests. The experience and achievements of the conventions may provide a guide for environmental measurements, knowledge for dealing with transboundary environmental issues and assistance with the development of legal instruments.

73. Exploiting synergies with other international organizations is particularly important given the limited resources generally available. One example is the UNECE collaboration within the Environment and Security Initiative and the partners UNEP, UNDP, OSCE and REC. Links with other regions and at the global level can have significant advantages in the longer term.

74. Some UNECE conventions and their protocols are open to, or have taken steps to open themselves to, accession by non-UNECE member states. This option makes it possible for other regions to use the UNECE conventions' legal frameworks and benefit directly from the experience in transboundary cooperation. This could be particularly important to the countries that border the UNECE region.

75. Parties to the EIA Convention and the Water Convention have adopted amendments to open their conventions, though these have not yet entered into force. The Protocol on SEA, the Protocol on Civil Liability and the Aarhus Convention already allow accession by any member of the United Nations upon approval by the Meeting of the Parties.

76. So far, no non-UNECE member State has indicated it wishes to accede to these instruments. However, the possibilities exist and these give a clear signal to the other regions.

77. Sometimes there are opportunities to link with neighbouring countries outside the UNECE region. For the Caspian Sea, practical guidelines for regional implementation of the requirements of the EIA Convention were developed by the five Caspian littoral states – Azerbaijan, the Islamic Republic of Iran, Kazakhstan, the Russian Federation and Turkmenistan – with support from UNEP, UNECE, the European Bank for Reconstruction and Development and the Caspian Environment Programme.

78. The UNECE Industrial Accident Notification (IAN) System adopted by the IA Convention has a joint, harmonized report for use by points of contact in the UNECE IAN

System and within the Joint UNEP/OCHA (Office for the Coordination of Humanitarian Affairs) Environment Unit.

III. CONCLUSIONS

79. The UNECE conventions have had many successes and have made a significant contribution to the region's environmental policy. Even so, region-wide implementation is still a goal for all five conventions, and there remains a need for further action. These concluding paragraphs draw attention to specific issues that may merit particular attention. **Proposed questions for discussion are highlighted in italics; possible options for decisions are in italics in parentheses.**

80. National implementation. In spite of the obvious overall achievements of the conventions, their implementation across the region is uneven; some countries fully implement the requirements of certain conventions, others find it difficult or choose not to do so. Implementation at the national level is the key to region-wide implementation, and there should be a strong focus on this activity. National coordination between the authorities involved in the implementation of an MEA should be further improved.

81. *What are the priorities and next steps to promote ratification of MEAs? And how can national implementation be encouraged in those countries with a poor record of implementation? (Ministers may wish to highlight priority action for the attention of the governing bodies of the conventions.)*

82. Reporting. Apart from ratification, reporting provides the main information for assessing national implementation. The *Kiev Guidelines* devote an entire section to reporting and stress the various purposes for which it is used; these include the sharing of information between Parties and with the public. However, not all Parties report in a timely and effective manner.

83. *How can current reporting procedures be improved? And how can Parties be encouraged to report effectively and on time? (Ministers may wish to suggest options or draw attention to examples of effective reporting or to areas of difficulty.)*

84. Capacity-building. All five conventions have developed capacity-building activities to aid implementation in EECCA and SEE. Further effort is required, both by donors and by recipients, to ensure that capacity-building is effective and that it leads to sustainable implementation. The Assistance Programme under the IA Convention and the capacity-building framework under the Aarhus Convention may serve as examples.

85. *Are there shortfalls in the current capacity-building activities? If so, what action should be taken to address them? (Ministers may wish to suggest examples of effective capacity-building or draw attention to programmes that are ineffective.)*

86. Funding. There is a need to secure predictable, long-term funding to implement convention workplans. While mandatory funding mechanisms are difficult to agree, experience with most voluntary financing arrangements has not always been satisfactory. There is a need to find reliable funding mechanisms.

87. *What can be done to stabilize funding mechanisms to improve the planning of work programmes? (Ministers may wish to consider possibilities for establishing long-term, stable financing mechanisms.)*

88. **Public participation.** While the Aarhus Convention has championed involving the public and making environmental information available, other conventions too have taken steps to involve the public and civil society in their work.

89. *Is there more that should be done to integrate public participation into the work of the conventions? (Ministers may wish to make recommendations to the governing bodies of the conventions.)*

90. **Outreach.** The UNECE conventions are effective instruments for protecting the environment and human health and for strengthening international cooperation. They are excellent models, and “exporting” their experience through outreach and international collaboration can benefit other regions facing similar problems. Further efforts for outreach activities and exchange of information with other regions of the world should be made.

91. *What further action should be taken to promote the sharing of information and experience with other regions? (Ministers may wish to conclude that current efforts are sufficient, or they may recommend additional action for some MEAs.)*

Ratification of conventions and protocols in different UNECE subregions

Instrument – year of adoption	EU ^{1/-} (28)	EECCA (12)	SEE (7)	Other Europe(7)	North America(2)	Total (56)
LRTAP – 1979	28	9	7	5	2	51
Water – 1992	24	6	2	3	0	35
EIA – 1991	27	7	3	3	1	41
IA – 1992	25	6	2	3	0	36
Aarhus – 1998	27	10	2	1	0	40
EMEP ^{2/-} – 1983	28	3	5	4	2	42
1st sulphur ^{3/-} – 1985	15	3	0	3	1	22
NOx ^{4/-} – 1988	23	3	0	3	2	31
VOC ^{5/-} – 1991	17	0	0	4	0	21
2nd sulphur ^{6/-} – 1994	21	0	1	4	1	27
HM ^{7/-} – 1998	21	1	0	4	2	28
POPs ^{8/-} – 1998	22	1	0	4	1	28
Gothenburg ^{9/-} – 1999	18	0	0	2	1	21
Water and Health – 1999	13	4	2	2	0	21
PRTR – 2003	2	0	0	0	0	2
SEA – 2003	5	0	1	0	0	6
Civil liability – 2003	1	0	0	0	0	1

Numbers indicate the number of States that have ratified each instrument. Numbers in parentheses show the total number of countries in each subregion.

1/- These figures include the European Community and accession States (Romania and Bulgaria).

2/- Protocol on Long-term Financing of the Cooperative Programme for Monitoring and Evaluation of the Long-range Transmission of Air Pollution in Europe (EMEP).

- 3/- Protocol on the Reduction of Sulphur Emissions or Their Transboundary Fluxes by at Least 30%.
- 4/- Protocol Concerning the Control of Emissions of Nitrogen Oxides or Their Transboundary Fluxes.
- 5/- Protocol Concerning the Control of Emissions of Volatile Organic Compounds or Their Transboundary Fluxes.
- 6/- Protocol on Further Reduction of Sulphur Emissions.
- 7/- Protocol on Heavy Metals.
- 8/- Protocol on Persistent Organic Pollutants.
- 9/- Protocol to Abate Acidification, Eutrophication and Ground-level Ozone.
