
TRACK E: CLIMATE CHANGE AND COMPLIANCE

1E NATIONAL MEASURES FOR CLIMATE PROTECTION

Facilitators: Jan van den Heuvel, DCMR Environmental Protection, The Netherlands

Ken Macken, Environmental Protection Agency, Ireland

Rapporteur: Meredith Reeves, Earthpace, LLC

BACKGROUND

This workshop examined the concepts of mitigation and adaptation, considered how national targets could be translated into sectoral and local level targets, and discussed the need to develop measurement tools that deliver reportable and verifiable results.

THE WORKSHOP DISCUSSION

As national, state, and local governments increasingly adopt laws to control climate change and promote energy efficiency, particular attention needs to be given to crafting a sound foundation for the implementation of environmental compliance with these requirements. To ensure that new climate change policies will be effective in achieving their intended results, program designers should assess any new requirement across all stages of the regulatory cycle, including policy development, drafting legislation and regulations, permitting, compliance promotion, compliance monitoring, non-compliance response, and program evaluation.

National emissions reductions targets set at a regional or international level (e.g., through the EU Emissions Trading Scheme) could be broken down on a sector-by-sector basis (e.g., cement, steel) to facilitate implementation, establish a level playing field among regulated entities, and reduce “leakage” of emissions to countries with weaker regulations. One of the most critical design aspects for success in reducing emissions is to develop targets or requirements that are measurable, reportable, and verifiable.

Participants recognized that, in many countries, there is likely to be significant overlap between climate change mitigation and adaptation efforts and existing environmental and energy regulations. Conducting a review of a country’s existing national obligations with respect to climate change may be an effective way to understand the country’s needs and opportunities and may be a way to demonstrate the types of activities already being undertaken that

reduce greenhouse gas emissions. However, participants also recognized that comprehensively assessing existing national obligations could be complex because there are many variables and differing levels of capability and capacity.

THE OUTCOMES

To support the development of national measures for climate mitigation and adaptation, INECE could:

1. Develop a pilot project to design an indicator set for an industry sector.
2. Conduct a review of existing national obligations with respect to climate change, including both binding and non-binding targets.
3. Develop a set of principles regarding the compliance aspects of developing and implementing systems for national climate change measurement.
4. Ensure that environmental compliance and enforcement theory and practice are well represented in climate mitigation and adaptation efforts, particularly those relating to the protection of ecosystems and water resources.

2E TECHNOLOGY TRANSFER AND FINANCIAL ASSISTANCE

Facilitators: Kunihiko Shimada, Ministry of Environment, Japan

Peter Storey, PPL International

Kenneth J. Markowitz, Consultant to the INECE Secretariat;
Senior Counsel, Akin Gump Strauss Hauer & Feld LLP

Rapporteur: Ken Macken, Environmental Protection Agency, Ireland

BACKGROUND

Technology transfer is defined under the UN Framework Convention on Climate Change as practicable steps by developed country Parties and other developed Parties included in Annex II "to promote, facilitate and finance, as appropriate, the transfer of, or access to, environmentally sound technologies and know-how to other Parties, particularly to developing countries to enable them to implement the provisions of the Convention." This workshop sought to explore ways that technology transfer and financial assistance for mitigation of and adaptation to the impacts of climate change can have a secondary impact of building capacity for compliance with emissions limits and other climate-related policies.

THE WORKSHOP DISCUSSION

Peter Storey provided a private sector view of what technology transfer means, emphasizing that it lies at the center of current climate change negotiations. His view is that doubts concerning the current extent of technology transfer result mainly from restrictive definitions (and are also possibly partially negotiating position). He informed the group that last year \$3-7 billion worth of investment had occurred, and emphasized the continued need for private sector funding as the public sector cannot provide the amounts required.

Ken Markowitz discussed the necessity of ensuring a meaningful level of technology transfer in order to reach emission reduction goals and environmental improvement targets. He also raised the issue of inadequate enforcement of intellectual property rights in recipient countries potentially limiting the transfer of valuable emissions reduction and clean energy technologies. Building consensus on how to get new and existing technologies to countries that need them most, while protecting the financial interests of those exporting the technologies, will require significant creativity and compromise.

Kunihiko Shimada suggested that a critical need is to be able to measure compliance against the requirements of the three key articles in United Nations Framework Convention on Climate Change and the Kyoto Protocol dealing with this issue. He informed the group that the Expert Group on Technology Transfer is working to develop a suitable performance indicator to measure the impact of technology transfer.

The general discussion then concentrated on a number of issues, including the identification of opportunities to enhance uptake of technologies; methods to ensure appropriate finance is available (particularly at the early stages of trying to introduce a new technology to market); the need to create an enabling environment (removal of barriers and possible scope for incentives); and the need to ensure the resources and skills are available to maintain and operate any new technology.

THE OUTCOMES

To support efforts to facilitate the transfer of technologies and knowledge, participants recommended that INECE could:

1. Develop an environmental compliance and enforcement training program to transfer the network's knowledge to interested countries to help implement the provisions of the UN Framework Convention on Climate Change and the Kyoto Protocol, and case studies highlighting environmental compliance and enforcement best practices relevant to climate mitigation and adaptation through the INECE web site and/or through the United Nations Framework Convention on Climate Change technology transfer clearinghouse TT:CLEAR.

2. Evaluate whether and how to work with the United Nations Framework Convention on Climate Change Expert Group on Technology Transfer as it seeks to develop a suitable performance indicator to measure compliance against the requirements of the three key articles in Framework Convention and the Kyoto Protocol on technology transfer.

3E INTEGRITY IN MARKET MECHANISMS

Facilitators: Howard Leberman, Environment Agency for England and Wales
Edwin Aalders, International Emissions Trading Association

Rapporteurs: Louis Kotzé, North-West University, South Africa
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BACKGROUND

Among the most significant challenges to international harmonization of emissions trading systems is the need to guarantee a high level of compliance with each system's regulations supporting transparency and accountability in the monitoring, reporting, and verification of assets. The facilitators and participants of this workshop sought to identify actions that INECE and its partners could take to build an expert knowledge base on compliance and enforcement best practices necessary for linking emissions trading systems.

THE WORKSHOP DISCUSSION

Building from the findings of INECE's 2007 workshop, "Improving Efficiency, Effectiveness, & International Harmonization of Compliance Activities in Emissions Trading," which explored the role of compliance in assuring trust and integrity within and among emissions reductions platforms, participants discussed the value of market mechanisms to control greenhouse gas emissions and described experiences from their countries and regions (see <http://inece.org/emissions/>).

Discussion centered on the European Union Emissions Trading Scheme (EU ETS), which is designed to help Europe meet its commitment to reduce emissions under the Kyoto Protocol. Phase 1 of the EU ETS, which served as a pilot period, ran from 2005 to December 2007. Running from 2008-2012, Phase 2 of the EU ETS aims to decrease average European emissions by 6% of 2005 levels. The beginning of Phase 2 saw changes of the EU scheme with the inclusion of four non-EU states, the proposed inclusion of aviation, and new rules governing the inclusion of offsets. As the "first off the block," the EU ETS has been the driver for the development of much of the international carbon market; the cumulative value of allowances traded in 2007 was US\$50 billion.

Participants discussed how the scope and complexity of the European market raised significant challenges to international linkages, particularly with US regional initiatives or a possible future national US cap-and-trade program. Participants expressed concerns that little progress has been made on developing a common, global emissions reporting “language” and procedural guidance, possibly due to the shift in program design from scientists and technical experts to governments and policy experts.

Participants further discussed the applicability of the same principles of integrity and accountability in monitoring, reporting, and verification to the voluntary markets. Voluntary mechanisms have few direct penalties for wrongdoings, but an incentivizing ‘carrot’ exists in the form of stakeholder satisfaction.

OUTCOMES

Participants recommended that INECE continue to advance the recommendations of its 2007 workshop on “Improving Efficiency, Effectiveness, & International Harmonization of Compliance Activities in Emissions Trading” and could further:

1. Develop and facilitate technical working groups on (1) Registries, (2) Verification & Accreditation, and (3) Monitoring & Reporting that will conduct independent assessments of best practices, metrics, and terminology; extract lessons from the global trade systems, securities trading, accounting, and the US systems designed to reduce SO_x and NO_x; and provide recommendations applicable to existing and emerging emissions trading schemes.
2. Develop appropriate capacity building tools, such as a web-based inventory of articles and resources.
3. Develop recommendations on administrative rule-making procedures.
4. Coordinate with the International Carbon Action Partnership and other processes.

4E SUSTAINABLE MANAGEMENT OF CARBON SINKS

Facilitators: Kenneth J. Markowitz, Consultant to the INECE Secretariat; Senior Counsel, Akin Gump Strauss Hauer & Feld LLP

Ana Maria Kleymeyer, Ministry of Environment, Argentina

Rapporteur: Dimitar Koparov, Earthpace, LLC

BACKGROUND

As the global community seeks to identify strategies for reducing greenhouse gas emissions, the sustainable management of forests, soil, and other carbon sinks has received significant attention. During the UN Climate Change Conference in Bali, developing country delegates pushed for recognition of the contribution of “reduced emissions from deforestation and forest degradation” (or REDD) through formalizing these reductions as tradable credits under the Kyoto flexibility mechanisms. However, countries purchasing credits under the Clean Development Mechanism have expressed concerns that emission reductions from “avoided deforestation” and from other land use activities are too difficult to objectively quantify. Participants in this workshop evaluated the verification challenges to reducing emissions from deforestation and to protecting other carbon sinks, and identified actions for INECE to build capacity for assuring compliance in this context.

THE WORKSHOP DISCUSSION

Facilitators and participants in this workshop explored the challenges of quantification, evaluation, verification, and monitoring of biological carbon sinks and of generating certified emissions reduction credits from land use, land use change, and forestry (or LULUCF) activities.

Experts suggest that as much as 20% of global CO₂ emissions result from deforestation and, during the December 2007 UN Climate Change talks, there was significant pressure from developing countries to include credits generated through “avoided deforestation” under the Kyoto Clean Development framework. The Climate Conference generated a Decision “recognizing that reducing emissions from deforestation and forest degradation in developing countries can promote co-benefits,” but did not commit to a formal course of action.

Much of the challenge with using credits generated from land use, land use change, and forestry projects lies in the difficulty of assuring compliance with monitoring and reporting requirements to the level of integrity necessary to monetize the credit. Participants discussed the challenges with generating “carbon credit currency” from the protection of carbon sinks, including the immaturity of the measurement framework for assessing carbon sinks. Participants identified particular concerns with measuring short term carbon emissions from forestation, the definitional issue of when a forest becomes a sink, whether a “stable” (mature) forest can still be considered a carbon sink, the permanence of biological carbon sinks, and the relative effectiveness of the major sinks (forests, soils, and oceans).

Participants noted that the use of carbon credits from land use, land use change, and forestry projects has faced opposition from the European Commission, which concluded that these types of projects could undermine the integrity of the EU Emissions Trading Scheme, due to challenges associated with transparency,

measurement, monitoring, and verification of the carbon reductions. Participants also considered the development benefits of forestry and land use credits, while recognizing the need for any future market mechanism to respect the rights of indigenous peoples and to direct proceeds towards communities whose livelihood may become displaced.

THE OUTCOMES

The discussion illuminated a significant role for INECE to build capacity for improving governance and management of carbon sinks, with a particular opportunity in contributing to improving compliance with laws to limit illegal logging and illegal trade in timber products. Workshop participant identified the following action items for INECE:

1. Develop a compendium of compliance and enforcement mechanisms that are used in the context of carbon sinks (forestry, land change...), including case studies and best practices, particularly on enforcement responses to illegal logging.
2. Initiate an online forum for discussions on compliance and enforcement mechanisms to protect carbon sinks.
3. Host an international workshop on systems of evaluation, quantification, verification and monitoring of biological carbon sinks, where experts and practitioners could exchange information and experience. A possible workshop focus could be the design of a universal conversion of carbon sink value to carbon credits.

5E MEA COMPLIANCE MECHANISMS AND THE POST-2012 CLIMATE REGIME

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BACKGROUND

During the 2007 United Nations Climate Change Conference in Bali, Indonesia, governments agreed to the "Bali Roadmap" – a series of negotiations on mitigation, adaptation, technology, and financing to move the international community towards agreement on a new global climate treaty by December 2009. The new treaty would be implemented subsequent to the expiration of the commitment period of the Kyoto Protocol in 2012.

During this workshop, participants discussed with two main themes: (1) the potential direct interaction between a post-2012 climate agreement and other multilateral environmental agreements and (2) lessons that might be learned from compliance mechanisms in other Multilateral Environmental Agreements that can inform the development of a compliance mechanism for a post-2012 climate agreement.

THE WORKSHOP DISCUSSION

Facilitators gave an overview of the current climate negotiations, focusing on: 1) what is meant by “a post-2012 climate agreement” and (2) how other Multilateral Environmental Agreements come into play.

The Kyoto Protocol’s first commitment period is 2008 – 2012. While Kyoto itself envisioned a subsequent commitment period, an issue discussed was whether the post-2012 regime will be a completely new agreement, rather than an extension/modification of Kyoto. The advantage of new negotiations would be if they could bring in countries that are not parties to Kyoto or not subject to mitigation commitments under Kyoto, or to otherwise clarify Kyoto’s distinction for “economies in transition.”

Other MEAs generally thought to interface with the United Nations Framework Convention on Climate Change (UNFCCC) and its Kyoto Protocol are the Montreal Protocol on Substances that Deplete the Ozone Layer, the Convention on Biodiversity and the United Nations Convention to Combat Desertification. The facilitators described the Convention on Biodiversity (CBD) as having no compliance mechanism *per se*, except for trade in living modified organisms under the Cartagena Protocol; hence there has been very little interaction between CBD and UNFCCC, except for expert advice on biodiversity issues when needed. Furthermore, limited discussion has taken place between the Kyoto and United Nations Convention to Combat Desertification compliance committees. The most explicit area of interface is with the Montreal Protocol, since many ozone depleting substances are also greenhouse gases.

Kyoto’s requirements, and hence its compliance mechanisms, touch on emissions reductions, national reporting, and inventories. Countries that are found not to meet the core eligibility criteria for the Kyoto mechanisms (Emissions Trading, Clean Development Mechanism, and Joint Implementation) can be suspended from trading in the official Kyoto carbon markets. For Annex I countries’ emission reduction obligations, if a country is out of compliance with its Kyoto commitments in 2012, a penalty that increases emissions reductions obligations for the next commitment period by 30% of the shortfall will be imposed.

Participants discussed the effectiveness of these types of compliance mechanisms. There was consensus that, by delaying the “bite” of the sanction until after 2012, this mechanism was most likely ineffective. Countries could simply try their

chance at negotiating a better deal at the end of the next commitment period, or roll their sanctions into the future interminably. One participant suggested establishing an international environmental court to adjudicate cases of non-compliance with a post-2012 climate treaty.

Participants then discussed looking at other MEAs for alternative models of compliance mechanisms that may be more effective (whether or not there is a direct interface between that MEA and Kyoto requirements). The Convention on International Trade in Endangered Species, which imposes trade sanctions for certain types of non-compliance, provides a potential model. Another party suggested the Montreal Protocol may be the best model to look at, given the Montreal Protocol's historical record of effectiveness. It was mentioned that the proposed United States Lieberman-Warner Bill uses trade sanctions, in the form of a tariff-like requirement to buy carbon credits in cases of failure of compliance.

THE OUTCOMES

Participants agreed that INECE could play a constructive role in supporting the post-2012 climate negotiations, by:

1. Evaluating alternative compliance mechanism models, informed by those in other MEAs, and analyse the pros and cons of different approaches. The Secretariat should evaluate whether and how to propose specific language as a result of the analysis, with consideration to ensuring that the language did not represent the position of and did not advocate on behalf of any governmental official who participates in INECE. Participants recommended that INECE provide any recommendations by late 2008 or early 2009, to allow time for uptake into the negotiation process.
2. Conducting further research on designing compliance mechanisms to restrict emissions that contribute to climate change, including greenhouse gases, ozone depleting substances, and black carbon (a component of soot).

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