
**RAPID APPRAISAL OF THE PHILIPPINE COMPLIANCE WITH,
AND IMPLEMENTATION OF ITS VARIOUS MULTILATERAL
ENVIRONMENTAL AGREEMENTS' OBLIGATIONS**

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SUMMARY

This study evaluates the implementation of 10 multilateral environmental agreements to which the Philippines is a signatory and/or has ratified. Out of these 10 multilateral environmental agreements eight are global, and 2 are regional. They represent various environmental concerns, such as climate change, ozone depletion, biodiversity, bio-safety, heritage sites, forests, oceans and seas, and transboundary air pollution. Using the rapid appraisal method, the study identified variables which serve as either facilitating or hindering factor in the effective implementation of these multilateral environmental agreements.

1 INTRODUCTION

The Philippines' intention and ability to comply with and domestically implement multilateral environmental agreements to which it is a signatory and/or has ratified have been a subject of many case studies. Observations vary in their assessment of the Philippine performance. Some are critical while others are cautiously positive. Negative reviews usually center on institutional dysfunctions, e.g., over-coordination of environmental policy formulation, implementation, and review involving the Department of Environment and Natural Resources, the Philippine Council for Sustainable Development, and the National Economic and Development Authority;¹ and fragmentation and communication failures primarily between the Department of Foreign Affairs and the Department of Environment and Natural Resources (DENR) on negotiating multilateral environmental agreements, etc.² Positive reviews, on the other hand, highlight the adaptability of the Philippines to respond to the demands of the various multilateral environmental agreements and the strategies being used for multilateral environmental agreement implementation. There are also those which examine the Philippines' extent of compliance depending on the nature of the multilateral environmental agreement.³ Yet, most of these reports do not employ systematic

analysis of the causes of compliance (or non-compliance) of the Philippines. Most of them concluded their reports by citing procedural accomplishments, e.g., ratification of multilateral environmental agreements, enacting of enabling national/domestic laws and measures, reduction of Ozone-Depleting Substances, etc. Unfortunately, these are not enough to understand the Philippines' level of compliance and implementation successes (or failures).

1.1 Objectives

This rapid appraisal aims not only to determine the levels of compliance (or non-compliance) of the Philippines with its various multilateral environmental agreements obligations, but explain the reasons behind them by analyzing the factors that affect their effective implementation. The multilateral environmental agreements considered in this study are listed in Table 1 (The 10 Multilateral Environmental Agreements).

Table 1: The 10 Multilateral Environmental Agreements

Multilateral Environmental Agreement	Year of Approval/ Open for Signature	Year of Entry Into Force	Year of Ratification by the Philippines	Lead Government Agency in the Philippines
Kyoto Protocol	1997	2005	2003	EMB
Montreal Protocol on Substances that Deplete the Ozone Layer	1987	1989	1991	POD
Convention on Biological Diversity	1992	1993	1993	PAWB
Cartagena Protocol on Bio-Safety	2000	2003	2006	NCBP
Convention Concerning the Protection of the World Cultural and Natural Heritage	1972	1975	1985	NCCA & DENR
International Tropical Timber Agreement-1994	1994	1997	1994	FMB
United Nations Convention on the Law of the Sea	1982	1994	1982	MOAC
Basel Convention on the Transboundary Movement of Toxic and Hazardous Wastes and Their Disposal	1989	1992	1993	EMB
ASEAN Agreement on the Conservation of Nature and Natural Resources	1985	---	1986	DENR
ASEAN Agreement on Transboundary Haze Pollution	2002	---	---	PHTF-EMB

1.2 Theoretical Framework

This study builds on INECE's collection of literature on compliance theories. In particular, this study uses Weiss and Jacobson's framework entitled, "A Comprehensive Model of Factors that Affect Implementation, Compliance, and Effectiveness."⁴ The model posits that the implementation and effectiveness of,

and compliance with, international environmental accords could be explained by variables grouped into four broad categories. These four groups of variables and the specific hypotheses under them are as follows:

1. *Characteristics of the Activities Involved:* An accord can be effectively implemented if there are smaller numbers of actors involved; there is a positive implementation cost-benefit ratio; large transnational corporations are monitored; and a regional hegemon provides good implementation examples to others.
2. *Characteristics of the Accord:* An accord leads to effective implementation if it adopts the differentiated obligations principle; it has precise objectives and obligations; it utilizes scientific and technical advice from the epistemic community; it requires party-signatories to submit reports to the secretariat; it provides other forms of monitoring member-signatories' compliance; it provides for an effective and efficient secretariat; and there are incentive and sanction provisions.
3. *International Environment:* A conducive international environment for effective implementation is one where international conferences are held to discuss issues and problems; international media and informed public opinion and non-governmental organizations pressure governments to deal with environmental issues; and major international organizations and international financial institutions are able to provide moral persuasion and financial/technical assistance.
4. *Factors involving the Country:* Factors inherent to the country lead to effective implementation if: the countries' history and culture are pro-environment/eco-centric; the countries are democratic and rich; there is high local administrative and technical capability; there is active participation from local non-governmental organizations; and there are pro-environment political leaders.

1.3. Methodologies

This study employed the Rapid Appraisal Methods which are quick, low-cost ways to gather the views and feedback of beneficiaries and other stakeholders on the implementation of multilateral environmental agreements which concern them. Data were also gathered from the Department of Environment and Natural Resources and its various bureaus, and from the libraries, databases, and websites of the 10 multilateral environmental agreements.

2 SUMMARY OF FINDINGS AND ANALYSES

Philippine laws as enabling instruments for the domestic implementation of international accords are inter-related. Like multilateral environmental agreements, domestic laws influence each other. The Local Government Code

of 1991 influences almost all the other environmental laws as it provides for the devolution of environmental protection services. Thus, environmental programs and projects usually involve local government units and the participation of the people from the grassroots. The National Integrated Protected Areas System Law also takes part in the implementation of various environmental programs as it encompasses the marine, forest and terrestrial environments as long as they are considered protected areas. The National Integrated Protected Areas System Law has a transcending authority over the other sub-sectors of the environment.

Interconnections between and among domestic laws and between multilateral environmental agreements are also perceivable and this is manifested by the management of a single site or program in compliance with two or more multilateral environmental agreements. For example, the Tubbataha Reef National Marine Park is managed as a marine protected area (under the Convention on Biological Diversity (CBD)), as a sanctuary of marine resources under the United Nations Convention on the Law of the Sea (UNCLOS), as a world heritage site under the World Heritage Convention, and as a protected wetland under the Ramsar Convention. The same is true for the Puerto Princesa Subterranean River National Park as a PA and as a world heritage site. Some forestlands are also managed as protected areas under National Integrated Protected Areas System and as forest reserves under International Tropical Timber Agreement-1994 (ITTA).

Due to the complexity and interrelationship of domestic laws, coordination among the different government agencies is a must. Thus, implementation of some laws is done in an inter-agency approach. The agricultural aspect of the Fisheries Code of 1998, for example, is implemented by the Department of Agriculture's Bureau of Fisheries and Aquatic Resources through its fishery and livelihood programs. In addition, the Department of Environment and Natural Resources takes part in the implementation of the code's environmental aspect through its marine and coastal resources management programs. But, both of these are in compliance with the United Nations Convention on the Law of the Sea. In the case of the Montreal Protocol, the Philippine Ozone Desk (POD) takes the lead, with the support from other agencies like the Bureau of Customs, Department of Trade and Industry, Department of Health, among others. Likewise, the implementation of the Cartagena Protocol is undertaken by the National Committee on Bio-safety of the Philippines (NCBP) and Bureau of Plant Industry as lead agencies.

In some cases, the inter-connectivity of domestic laws leads to multilateral environmental agreement implementation conflicts. The National Integrated Protected Areas System and IPRA Laws, for example, conflict with each other in protected area management because the former upholds participatory approach, while the latter promotes (indigenous peoples') rights-based approach. The case of the indigenous peoples of Coron Island in Palawan is one example where the IPRA Law dominated the National Integrated Protected Areas System Law, i.e., the indigenous peoples' rights were upheld over those of the majority's rights for a healthful ecology.

Philippine compliance with the 10 multilateral environmental agreements can be plotted in a spectrum of procedural and substantial compliance. In terms of substantial compliance, some of the provisions and obligations under some multilateral environmental agreements have already been undertaken by the Philippines even before their ratification and entry into force in the country. Thus, we may call this as “perfunctory compliance” because of the routinary activities or practices prior to the multilateral environmental agreements’ enforcement. Some protected areas, for example, have been established as early as the 1980s. The National Committee on Bio-safety of the Philippines has also been engaged in genetically-modified organism issues and concerns since 1990. Government agencies like the Cabinet Committee-Maritime and Ocean Affairs and Maritime and Ocean Affairs Center, have also been engaged in marine environmental protection and baselines and territory identification prior to the United Nations Convention on the Law of the Sea.

Among many other factors, financial incentives may have attracted the Philippines to ratify many multilateral environmental agreements. Majority of the multilateral environmental agreements under study provide financial assistance for developing countries to implement them. Nine of these multilateral environmental agreements have been ratified by the Philippines, the most recent of which is the Cartagena Protocol (October 2006).

Table 2: Multilateral Environmental Agreements Ratification and Provision for Financial Assistance

Multilateral Environmental Agreements	Philippine Ratification/ Signature	Available Financial Assistance
ITTA	X	X
CBD	X	X
WHC	X	X
UNCLOS	X	X
ACNNR		
Basel ^a	X	X
Montreal	X	X
Cartagena	X	X
ATHP ^a	X	X
Kyoto	X	X

Note:

^a Financial assistance is based on voluntary contribution.

Generally, the Philippines is strong in procedural compliance, including the submission of national reports, attendance in international meetings and conferences, and membership in subsidiary bodies created by the international conventions. The Protected Area and Wildlife Bureau, for example, has already submitted its "Third National Report to the Convention on Biological Diversity." Likewise, the Forest Management Bureau has transmitted its "Second National Report to the International Tropical Timber Organization." The National Commission for Culture and Arts also transmits regularly its "National Report to the World Heritage Committee" which is supplemented by the conservation reports of local organizations in charge of the management of the world heritage sites. The Environmental Management Bureau has also completed its "National Reporting" and "National Communication" to the Basel Convention and Kyoto Protocol, respectively.

Other examples of procedural compliance of the Philippines are: the development of criteria and indicators system and issuance of tenurial agreements (International Tropical Timber Agreement -1994); the issuance of permits to recyclers, and transporters to operate (Basel Convention); the issuance of permits to conduct business (Cartagena Protocol); and the establishment of protected areas (Convention on Biological Diversity). Still, substantial improvements on the condition of environment are hardly recorded or reported. Without these accomplishments reported, interested parties may get lost or confused when measuring the multilateral environmental agreements' effectiveness because the real measures as to the improvement of the environment are not apparent.

This study affirms that financial capability is a very significant factor in effectively implementing multilateral environmental agreements at the local/ground level. In the case of the Convention on Biological Diversity, a trend of effective management is observed in revenue-earning protected areas. This is true in the cases of the Tubbataha Reef National Marine Park (user fee is imposed), and the Rice Terraces of the Cordilleras (no user fee is imposed). The former is effectively protected using the funds generated from the user fees, while the latter is not because, aside from the fact that individual lots of the terraces are privately owned, user fees cannot be imposed which could be used to renovate the slowly eroding rice terraces. In the forestry sector, reforestation effort was at its peak when there was still money from the ADB-funded National Reforestation Program. However, reforestation began to wane when there were no longer enough funds to conduct massive reforestation again. In the case of the Montreal Protocol, the effective implementation of the National CFC Phase-Out Plan is partly attributed to the funds provided by the Multilateral Fund and World Bank (multilateral assistance), and Swedish International Development and Cooperation Agency (bilateral assistance).

The skills of officials in charge (e.g., managers or superintendents of protected areas, foresters, custom examiners, agriculturists, etc.) of the implementation of the multilateral environmental agreements are also necessary to achieve effective

implementation. Most of the protected area superintendents or managers in the Philippines are not knowledgeable in the field, hence, most of the protected areas are also not managed effectively, according to the Haribon Foundation, an environmental NGO. Likewise, customs officials may have to be trained to check multilateral environmental agreements' objects of control (e.g., hazardous wastes, genetically-modified organisms, Ozone-Depleting Substances, biodiversity species for trade, etc.) at the port-of-entry. Lack of knowledge or its inadequacy among Bureau of Customs personnel would put the country in jeopardy with hazardous wastes and its multilateral environmental agreement obligations. One such case is the entry of Ozone-Depleting Substances in a port in Cebu. The Department of Environment and Natural Resources also admits that there are illegal entries of Ozone-Depleting Substances in the country, but these are not monitored and usually unreported. Apart from the lack of knowledge of officials, the geographic character of the Philippines, an archipelagic country, contributes to the illegal entry of Ozone-Depleting Substances, genetically-modified organisms, and hazardous wastes because each part of the country's coasts may be considered as possible ports of entry.

Personnel turnover (i.e., resignation, transfer, retirement) is also a factor that hinders effective implementation of some accords. In the Philippines, personnel turnover does not provide for the continuation of programs and activities. Hence, new staff begins from scratch because the knowledge of the previous staff are not passed on to them. In the case of the ASEAN Agreement on Transboundary Haze Pollution (ATHP), for example, the retirement of the focal person has led to the partial loss of knowledge and expertise in the field.

The study encountered some difficulties in assessing the effectiveness of implementation of two multilateral environmental agreements, namely, United Nations Convention on the Law of the Sea and ASEAN Agreement on the Conservation of Nature and Natural Resources (ACNNR). The United Nations Convention on the Law of the Sea, a document composed of more than 200 pages, is a very broad accord and this has not permitted the researchers to make a substantial assessment. Although the study on United Nations Convention on the Law of the Sea focused on the provisions of marine environmental protection, difficulty in analysis was still encountered. This is because the provisions on marine environmental protection are highly related and inseparable to the other contents of the accord such as shipping, marine pollution due to oil spills, and exploration of seabed. In addition, the sheer size of the Philippine marine territory makes it difficult to assess the effectiveness of the accord's implementation.

Agreement on the Conservation of Nature and Natural Resources is another multilateral environmental agreement with which the study had difficulty in assessing. It was ratified by the Philippines, but it has never entered into force due to the failure of other member-countries of the Association of Southeast Asian Nations to ratify it.

3 CONCLUSION

The Philippines is one of the countries which has the most number of multilateral environmental agreements, i.e., 28. It is well-noted that the country “possesses one of the most responsive institutional and legislative mechanisms for environmental management in South East Asia.”⁵ Yet, it also has its share of environmental law and regulation implementation problems especially in fulfilling its multilateral environmental agreement obligations. In this study, the following variables were observed as facilitating or hindering factors in the effective implementation of multilateral environmental agreement obligations in the Philippines: political will, funds, technical knowledge in implementing environmental laws, cooperation of civil society organizations and the business sector, coordination between and among national and local authorities and government agencies, and harmony among national/domestic environmental and various other laws.

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