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Transboundary Air Pollution

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Revision of the Protocol to Abate Acidification, Eutrophication and Ground-level Ozone, as amended in 2012

Informal Paper: Approaches to facilitate ratification and implementation of a future revised Gothenburg Protocol by current non-Parties

Summary

At its forty-third session (Geneva, 11–14 December 2023), the Executive Body adopted Decision 2023/5 launching a process to revise the Protocol to Abate Acidification, Eutrophication and Ground-level Ozone, as amended in 2012 and to address other conclusions of its review. Pursuant to paragraph 2(f) of this decision the revision process will include consideration of, inter alia, new flexibilities and other approaches to better facilitate ratification and subsequent implementation by current non-Parties to the present Gothenburg Protocol. This document provides information on approaches that could be considered by Parties in line with decision 2023/5 and as a follow-up to the document ‘Options to address the conclusions of the review of the Gothenburg Protocol, as amended in 2012’¹ and can be considered alongside previous documents and examples². It has been drafted by the Bureau of the Working Group on Strategies and Review and corresponds to the document ECE/EB.AIR/WG.5/2024/INF.7 as mentioned in the provisional agenda for the sixty-second session of the Working Group on Strategies and Review (ECE/EB.AIR/WG.5/131). A courtesy translation will be provided by the United Kingdom of Great Britain and Northern Ireland.

Parties are invited to give views on approaches and consider recommending an approach (or combined approaches) for further discussion.

This document is also addressed to current non-Parties to the Gothenburg Protocol for their consideration in developing their positions on which approaches might facilitate a possible future ratification and implementation.

¹ ECE/EB.AIR/2023/9 – “Options to address the conclusions of the review of the Gothenburg Protocol, as amended in 2012” (see [here](#))

² “New approaches for EECCA countries, Western Balkan countries and Türkiye”(see [here](#)); “Concrete example of introducing a staged ratification approach in the Gothenburg Protocol” (see [here](#))

I. Introduction

1. This document responds to decision 2023/5 of the Executive Body and includes further information to build upon ECE/EB.AIR/2023/9, which set out options for revising the current Protocol. It expands in particular on new approaches that could work for current non-Parties to the 2012 amended Gothenburg Protocol, specifically focusing on areas highlighted in paragraph 8 of decision 2023/5, namely, “step-wise approaches to commitments and ratification, sector-based approaches, a focus on key sectors, restructuring of the technical annexes, replacement of annexes with guidance documents, or combinations thereof.”

2. This document also further responds to paragraph 53 of the [Convention’s Long term-strategy](#), which asks Parties, when considering updates to the Protocols, to consider whether additional flexibilities could be incorporated and whether new approaches could be adopted in order to facilitate ratification and implementation by countries in Eastern Europe, the Caucasus, and Central Asia, and Türkiye. To facilitate discussion, these example approaches are outlined in this document. This does not present an exhaustive list of approaches, but represents examples which have previously been discussed in EB43 informal paper: [Item 5_New approaches for EECCA-WB-TR](#):

- (a) Staged ratification approach
- (b) Phased commitment approach
- (c) Separate section approach
- (d) Sector-based approach
- (e) Individual commitment approach / voluntary approach.

3. These approaches can be used as stand-alone approaches or in a number of combinations. They will need to be considered in relation to other parts of the negotiations on the Gothenburg Protocol, which may affect the effectiveness of the approach or require parallel discussions (see ECE/EB.AIR/WG.5/2024/1). This would include inter alia:

- (a) New emission reduction commitments for pollutants currently covered by Gothenburg Protocol;
- (b) Potential revisions to technical annexes to current Gothenburg Protocol, including with regard to their scope and level of ambition;
- (c) New flexibilities in regard to the Protocol and annexes;
- (d) Overarching, collective risk-based target(s) to reduce harmful effects to health and to ecosystems, including biodiversity loss in ECE region.

4. Therefore, the analysis and explanations provided in this document should be understood in the context of potential new amendments to the 2012 amended Gothenburg Protocol for all Parties.

5. Non-Parties are therefore requested to provide comments on which approach(es) (or combination thereof) are the most viable to encourage more implementation of air quality measures and would overcome ratification obstacles of the current amended Gothenburg Protocol.

6. Parties to the current amended Gothenburg Protocol are also requested to provide views on the solutions presented in this document considering the possibility to integrate them in the future revised Protocol.

7. The term “non-Parties” in this document refers to the current Parties to the Air Convention³ that have not yet ratified the amended Gothenburg Protocol, in particular, the countries of Eastern Europe, the Caucasus and Central Asia (EECCA), the Western Balkan countries (WB) and Türkiye (TR). The EECCA countries include Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russian Federation, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan. The Western Balkan countries include Albania, Bosnia and Herzegovina, North Macedonia, Montenegro, and Serbia. The following countries are official candidates for EU membership and have Stabilisation and Association Agreements with the EU in force: Albania, Bosnia and Herzegovina, Moldova, Montenegro, North Macedonia, Serbia, Türkiye, and Ukraine. As part of the accession, EU legislation (including environmental legislation) has to be implemented.

II. Background

8. At its forty-third session, the Executive Body adopted decision 2023/5 launching a process to revise the Protocol to Abate Acidification, Eutrophication and Ground-level ozone, as amended in 2012, and to address other conclusions of its review.

9. The Gothenburg Protocol, and its amended form, is the single regional environmental treaty that addresses the reduction of the anthropogenic emissions of multiple harmful atmospheric pollutants (gases and fine particles) that constitute a threat to citizens’ health, ecosystems, and biodiversity.

10. With the opening of the re-negotiation of this Protocol there is a clear opportunity to identify and include approaches that would help non-Parties to implement air quality measures and ratify the Protocols of the Air Convention.

11. The relevance of setting atmospheric emission reduction targets provides countries tangible objectives that are mainly achievable through the implementation of technological solutions, in specific industrial and economic activity sectors, that have proven to have substantial emission reduction effects.

12. TFTEI⁴ has presented an assessment for Armenia, Georgia, Kazakhstan, Moldova, Montenegro, and Serbia at the sixty-first session of the Working Group on Strategies and Review that provides recommendations for the respective Party on possible technological pathways toward the ratification of the current amended Gothenburg Protocol.

13. TFIAM⁵ has provided a demonstration on the costs of inaction by monetizing damage costs that consists of reduced life expectancy, morbidity costs (like hospital admittance, sick leave, medicine costs etc), damage to ecosystems, and labour productivity losses (mainly via work absenteeism). The monetized damage is higher in the Eastern than in the Western part of the ECE (more than 5% of the GDP).

14. By achieving emission reductions of atmospheric pollutants, ratifying Parties are also contributing to the UN Sustainable Development Goals, the Convention on Biological Diversity, the Kunming-Montreal Global Biodiversity Framework, the UNFCCC, and the Paris agreement.

15. The ratification and implementation of the Gothenburg Protocol constitutes therefore a groundbreaking policy instrument for all future ratifying Parties that can provide a structural framework for the establishment of national air polices and to help achieve environmental objectives.

16. The aim of this document, which has been drafted for consideration by the Bureau Working Group on Strategies and Review, is to analyse the proposed solutions to overcome the ratification barriers for current non-Parties and identify which should potentially be taken in consideration in the future revised text.

³ Tajikistan, Turkmenistan and Uzbekistan are not (yet) Parties to the Air Convention

⁴ “Technological pathways in Serbia, Georgia, Kazakhstan, Moldova, Montenegro and Armenia” (see [here](#))

⁵ “Cost of inaction” (see [here](#))

III. Staged ratification approach

17. A staged approach to ratification means that non-Parties work to ratify individual sections of the Protocol in progressive steps. Following the current structure of the amended Gothenburg Protocol, non-Parties could ratify specific revised/updated technical annexes gradually with one annex at a time, or in bundles, or as appropriate.

18. The timeline for a staged approach would be left up to the individual Parties respectively. Therefore, each can ratify at its own pace of implementation of measures. This allows current non-Parties to prioritize areas of the Protocol which can be implemented quickly and with a large effect on air quality improvement. It would be beneficial for interested non-Parties to jointly prioritize elements of the Protocol where cooperation is relevant or appropriate. This could also take account of global efforts to prioritise action on certain pollutants (e.g., short-lived climate pollutants) and/or sectors where technological progress is more accessible to reduce emissions (e.g., a sector-based approach).

19. However, taking a staged approach to ratification could run counter to the multi-pollutant, multi-effect approach if, for example, non-Parties only focused on one pollutant. The multi-pollutant, multi-effect approach is a core tenet of the current Protocol, therefore consideration by all Parties would be needed if this was changed to benefit non-Parties. A staged approach would also require decisions to be taken on the Protocol as a whole (outlined in detail in the EB43 informal paper: [Item 5_New approaches for EECCA-WB-TR](#)). This includes:

(a) Consideration of whether technical annexes remain binding on all Parties – as if non-binding technical annexes (or new mechanisms) are introduced, then Parties may not need to ratify them as part of the staged approach.

(b) Changes to existing articles of the Protocol that effect other aspects of the Protocol. Also new articles might be needed to allow Parties to ratify certain sections of the Protocol and annexes and not others.

(c) Also, Parties would need to consider the provisions required to make commitments on certain pollutants in annex II (including the quality of emission inventories and base years for pollutant reduction targets).

(d) Current non-Parties would also need to take legal advice on how to ratify the new amendments without being bound to the previous Protocol (this could be tasked to the ad hoc legal expert group to assess for non-Parties).

20. A staged ratification can easily be combined with other solutions to remove barriers to ratification for current non-Parties. This would simultaneously allow, among other things, the inclusion of separate sections for current non-Parties and/or reduce the number of technical provisions, and/or focus on key emission sources that would apply to non-Parties.

21. Overall, unless current non-Parties feel this approach would allow them to implement and progressively ratify the full Protocol in a sustained way, the added complexity and different levels of ratification by new Parties that could potentially be the outcome of this approach may not lead to better levels of implementation towards better air quality.

IV. Phased commitment approach

22. Taking account of different levels of development of air quality management by Parties, this approach would allow Parties to make “phased” commitments to the full Protocol.

23. A phased approach is differentiated from the staged approach in that the whole Protocol would be ratified by Parties at the start, however, the Protocol would contain provision for commitments to be implemented over a time period, to allow Parties to phase in implementation of measures over time, increasing in ambition towards the overall goal of the fully ratified Protocol.

24. This approach allows Parties to set different timing of ambition levels of commitments under the Protocol and annexes, reflecting their own air quality management level. It would not leave the timeline of implementation to individual new Parties to determine after ratification; the phases that current non-Parties could agree to in order to ratify the Protocol would need to be negotiated before ratification.

25. This approach would require changes to the Protocol and annexes. This would include developing commitments for:

- (a) Provision for Parties to set (and re-set) reduction commitments for pollutants over a pre-defined interval;
- (b) Provision of reporting obligations to allow Parties to set reduction commitments, while also improving their reporting mechanisms (i.e., inventories / monitoring etc.);
- (c) Re-organisation of the technical annexes to include new provisions for including emission limit values and/or sector regulation applicable to current non-Parties.

26. While a phased approach could ultimately reach the same goal as the staged approach, the time intervals would need to be pre-agreed and/or a provision would be required to renegotiate the Protocol to increase ambition across the Protocol. This would remove the ability for current non-Parties to autonomously change their own pace after ratification; they would be more bound to implement measures to a pre-determined timetable. Therefore, it is more likely that a phased approach would need to be considered with a concerted increase in capacity building for non-Parties towards implementing measures and reporting frameworks.

27. Revisions of some articles would need to be taken to implement this approach in the amended Protocol. This would include setting out timelines to reach certain thresholds in advance, and for Parties to ratify the whole Protocol, including elements allowing delay in implementation. This would require significant work by Parties to establish these timelines and thresholds early in negotiations. Therefore, unless non-Parties see value in taking this approach, the work in advance for defining these phases within the Protocol could be seen as prohibitively time-intensive for the current negotiations.

V. Separate section approach

28. This approach has thus far only been applied to the technical annexes. The principle of having different sections dependent on region already exists in respect to technical annexes IV, V, VI, VIII, X and XI, which are divided into three sections: one for the EMEP region, one for Canada, and one for the United States of America. The separate sections respect the difference in governance between the countries of these areas. One option could be to further divide the EMEP region in order to provide separate section(s) with their own requirements for the current non-Parties.

29. Several variations are conceivable to incorporate this approach, dependent on views from the respective countries concerned, such as:

- (a) Adding a separate section for EECCA countries, WB countries and TR (considered as one group) in each of the technical annexes;
- (b) Adding a separate section for EECCA countries, WB countries and TR (considered as one group) in some of the technical annexes (e.g., only for the more complicated and challenging technical annexes such as for VOCs and mobile sources);
- (c) Adding more than one separate section for individual EECCA countries, WB countries and TR in each or some of the technical annexes. This would not consider the EECCA countries, WB countries and TR as one unified group, but make further distinctions where necessary. For example, WB countries and TR could be considered separately from the EECCA countries, or even more disaggregated, to allow a truly tailor-made approach;

(d) Adding a new technical annex specific to EECCA countries, WB countries and TR, possibly with separate sections for sub-regions groups of countries. The structure of this new annex may differ from the structure of current technical annexes and allow, e.g., subsections by sector.

30. Depending on the content and structure of the newly added sections, the options (a), (b) and (c) mentioned in the previous paragraph may or may not require specific amendments to article 3 of the Protocol. Either way, it may certainly be useful to clarify in article 3 the division of the technical annexes into sections with different requirements and applicable to different subgroups within the geographical scope of EMEP.

31. A separate section approach could be combined with a staged ratification approach or a phased commitments approach and several options listed in paragraph 3 of this document, in order to further remove potential barriers to ratification (e.g., reduce the number of technical provisions and/or a focus on key emission sources).

VI. Sector-based approach

32. If current non-Parties desired an approach that focused more on polluting sectors than pollutants, annexes could be reorganized towards sectors.

33. A sector-based approach could be achieved by reorganizing the technical annexes by sector (source category) instead of by pollutant. Currently, technical annexes IV, V, VI, IX and X contain emission limit values and standards by pollutant (SO₂, NO_x, VOC, NH₃ and PM respectively), covering different sectors per annex, although annex IX currently only covers agricultural sources. These five technical annexes are limited to stationary sources, as mobile sources are dealt with separately in technical annex VIII. Technical annex XI is a separate case and deals with limit values for the VOC content of products.

34. Many Parties to the Convention have domestic legislation to control air pollution by sector, with separate legislation covering different pollutants for specific sectors such as power generation, refineries, industrial plants, combustion plants, non-road mobile machinery, road transport, shipping, fugitive emissions, the agricultural sector, waste and so on. A restructuring of the technical annexes by sector would in a way reflect this common 'sector-based' practice. This would also be more in line with Guidance and BAT documents developed under the Convention and elsewhere.

35. A sector-based approach of the technical annexes would require a comprehensive revision of the technical annexes, article 3, article 3bis and annex VII of the present Gothenburg Protocol, and amendments elsewhere in the text (e.g., article 13bis). This approach could be combined with other approaches (e.g., phased commitment approach, separate section approach or a voluntary approach) and could be done with a reduction in the number of provisions for EECCA countries, WB countries and TR, with instead a focus on key source categories.

VII. Individual commitment approach / Voluntary approach

36. An individual commitment approach current non-Parties may wish to take is to provide individual (i.e., country by country) measures focused on implementing individual measures to reduce air pollutant(s) in specific sectors or activities. One option could be a reformulation of the 2016 Batumi Action for Clean Air⁶, in which some current non-Parties to the Protocol made voluntary commitments as part of this programme. This could be grouped by sector or pollutant to show synergies between countries tackling similar

⁶ BACA | UNECE

challenges and could be linked to other parts of the Protocol to make progress towards ratifying other aspects (i.e., the phased commitment approach).

37. Another option is to allow each new Party to submit, upon ratification of the Protocol, its own (supplementary) emission requirements to which the new Party can/will commit (possibly supplementary to the minimum requirements already agreed to and included in the revised Protocol). These (supplementary) requirements could be mandatory or indicative and be subject to review/scrutiny by the Executive Body or not.

38. Inspired by current article 3, paragraph 11 (automatic incorporation of submitted emission reduction commitments by Canada and the United States, upon ratification, into annex II), article 3, paragraph 11bis (automatic incorporation of emission limit values by Canada, upon ratification, into the technical annexes) and article 13, paragraph 1 (possibility of adding emission reduction commitments to annex II prior to/upon ratification), the following options could be considered for EECCA countries, WB countries and TR:

- (a) Emission reduction commitments
 - (i) Automatic incorporation of submitted emission reduction commitments upon ratification into annex II. These reduction commitments can be of mandatory or indicative nature and are to be added to the respective Party name listed in the annex II tables. Automatic incorporation requires that the names of States are already included in the tables of annex II, leaving blank spaces to fill in the base year emission levels and emission reduction percentages upon ratification, and possibly adding footnotes to provide further specifications/clarifications as necessary; or
 - (ii) Adding names and emission reduction commitments to annex II prior to/upon ratification in accordance with article 13, paragraph 1 (adjustments). In line with the current provisions of article 13, this procedure would be subject to scrutiny and adoption by consensus at a session of the Executive Body, as opposed to automatic incorporation that does not allow interference from/require approval by the other Parties. The article 13 procedure may result in a review by a technical body to assess the adequacy/ambition level of proposed emission reduction commitments;
- (b) Emission limit values

Automatic incorporation of (supplementary) emission limit values into the technical annexes IV-VI and VIII-XI upon ratification, similar to the approach for Canada under article 3, paragraph 11bis of the Protocol.

39. Automatic incorporation of emission reduction commitments and emission limit values for EECCA countries, WB countries and TR would require amendments to article 3 of the Protocol (see paragraphs 11 and 11bis of this article as examples). Adjustments to annex II in accordance with article 13, paragraph 1 would not require further amendments as the current procedure should still be adequate.

40. For non-Parties, either of these approaches may be appropriate, but would require changes (or new) provisions within the Protocol to allow individual approaches to be included. Similarly, a reformulation of the Batumi Action for Clean Air programme could be done in parallel with the Gothenburg Protocol as a separate track of negotiations, or the mechanism could be included within the Gothenburg negotiations should Parties wish to pursue this option.

VIII. Concluding considerations

41. Any of the approaches discussed above can only be achieved if a sufficient number of Parties to the Convention wish to see these approaches taken forward for negotiation. Decision 2023/5 the Executive Body decided:

'Urges current non-parties to actively participate in discussions to revise the present Gothenburg Protocol with the aim of ensuring that any revisions take into account the different circumstances of current non-parties and facilitate ratification by those countries;'

42. Therefore, without active participation from non-Parties in discussing these approaches, none are likely to succeed. The list of approaches above are not exhaustive, and Parties should remain open and flexible in negotiations for new approaches to be formulated and brought forward. The Executive Body may also wish to consider whether the right engagement mechanisms exist for non-Parties to be active in negotiations to formulate and bring forward ideas, and whether capacity building programmes and other supportive programmes by individual Task Forces and subsidiary bodies are aligned to the priorities for negotiations of the Gothenburg Protocol in respect to the current non-Parties.

43. The Bureau of the Working Group on Strategies and Review refrains from stating a preference for a desired approach, as this should come from the Parties to the Convention. However as noted above, most approaches will rely on other decisions that need to be taken in respect to other aspects of negotiations on the Gothenburg Protocol (see the Draft Gothenburg Protocol Revision Plan, ECE/EB.AIR/WG.5/2024/1) and therefore should be taken into account by all Parties to the Convention.

44. Further detail on approaches and ideas of amendments to the existing Protocol to bring these mechanisms into effect can be found in the EB43 informal document [Item 5_New approaches for EECCA-WB-TR](#).

45. The considerations of this paper have not been assessed or commented on by the ad hoc group of legal experts. As the informal paper above mentions, many changes will involve changes to articles of the Protocol or could raise legal interpretation issues. Therefore, if any approach is taken in principle, the Bureau of the Working Group on Strategies and Review recommends the Executive Body to instruct the ad hoc group of legal experts to make some assessments of the approach desired and whether this could create any legal issues that Parties should be aware of.