



Book to Unit 2 - United Nations Convention to Combat Desertification in Countries experiencing Serious Drought and/or Desertification, particularly in Africa

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Site: UNITED NATIONS INFORMATION PORTAL ON MULTILATERAL ENVIRONMENTAL AGREEMENTS
Course: Introductory Course to the United Nations Convention to Combat Desertification in Countries experiencing Serious Drought and/or Desertification, particularly in Africa (UNCCD)
Book: Book to Unit 2 - United Nations Convention to Combat Desertification in Countries experiencing Serious Drought and/or Desertification, particularly in Africa

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1. Adoption of the Convention

As a result of the problems explained earlier, especially the situation in Africa, the international community took steps to develop legally and non-legally binding instruments establishing rules and regulations that provide the basis for action to combat desertification and mitigate the impacts of drought. There are a number of conventions dealing with matters related to land degradation, desertification and/or drought, such as the United Nations Framework Convention on Climate Change.

However, the only binding international agreement focusing specifically on the problem of desertification, land degradation and drought is the United Nations Convention to combat Desertification in Countries experiencing Serious Drought and/or Desertification, particularly in Africa, adopted in Paris, France, on 17 June 1994, and entered into force on 26 December 1996. It consists of a preamble, six parts and five Regional Implementation Annexes for Africa, Asia, Latin America and the Caribbean, Northern Mediterranean and Central and Eastern Europe respectively. It has currently 193 parties, making it a global treaty.

2. Objective

The objective of the Convention, provided in article 2, is "to combat desertification and mitigate the effects of drought in countries experiencing serious drought and/or desertification, particularly in Africa, through effective action at all levels, supported by international cooperation and partnership arrangements..."

The article further calls on all parties to take appropriate measures to prevent and mitigate the problems in those areas that are considered to be environmentally sensitive and prone to drought and desertification and to restore areas that have, or are experiencing negative impacts that might eventually lead to desertification. Parties are also required to address underlying causes of desertification, such as high rates of population growth and lack of necessary information on the part of local communities. In addition, parties are required to address the social and economic effects of desertification, such as famine and poverty. The Convention requires that all steps and actions be integrated as part of sustainable development of affected areas.

3. Obligations

The Convention creates three types of obligations on parties to be fulfilled as they are guided by the established principles (1) general and specific obligations of all parties, (2) obligations of affected parties, and (3) obligations of developed countries that are parties to the Convention.

Article 4(1) and (2) requires that any plans and other strategies to address the problems shall be coherent, integrated, long-term and coordinated. Strategies to address the causes as well as the socio-economic aspects of drought and desertification would, for example, include soil erosion control measures, famine relief programmes, and poverty eradication measures. Parties are also obliged to give priority to affected African countries, without neglecting affected parties in other developing regions.

Further, article 4(2)(d)-(f) obligates parties to promote cooperation amongst them at all levels: national, sub-regional, regional and international. Cooperation allows them to create appropriate institutional mechanisms and to use existing bilateral and multilateral financial mechanisms and arrangements to facilitate their efforts to protect and conserve the environment in ways that can prevent or minimize desertification and drought. This would require, for example, that countries establish joint funds to finance programmes and projects undertaken to combat desertification.

Existing arrangements

By the time the Convention entered into force, some countries had already taken some measures to combat desertification and the effects of drought. For example, African States had already established the Cairo Programme of Action during their Ministerial Conference on Environment in 1985, through which pilot projects were being undertaken in some countries with support of the Club du Sahel, UNSO, CILSS and other partners.

In recognition of this fact, article 4(1) of the Convention places an obligation on all parties to make use of such existing and future arrangements of a similar nature between two or more countries to jointly or individually carry out agreed plans, actions and strategies for combating desertification and the effects of drought, including rehabilitation of degraded lands.

4. Other international arrangements

In article 8, the Convention recognizes that **other international agreements** with similar objectives exist. Such other agreements have objectives that relate to the integrated development of land, control of soil erosion, deforestation, reclamation of degraded land and prevention of degradation of biological productivity of land. They include the Convention on Biological Diversity and the United Nations Framework Convention on Climate Change.

Article 8(1) of the Desertification Convention therefore directs that where parties have made commitments to conduct activities under such other international agreements, the activities shall be coordinated with those under the Convention in order to derive maximum benefits and to avoid duplication of effort.

5. Financial resources

There can be little doubt that implementation of the various agreed measures would be costly. In recognition of this fact, parties agreed that, depending on their capability, they would make financial resources available for establishment of training centres; and for scientific research and other actions that the Convention requires.

However, because of the limited financial resources of developing countries, especially those in Africa, developed countries that are parties to the Convention have an obligation under articles 20 and 21 to financially support their developing counterparts.

Global Mechanism

Article 21 establishes a Global Mechanism to promote actions leading to the mobilization and channelling of substantial financial resources, including for the transfer of technology, on a grant basis, and/or on concessional, to affected developing country Parties. The Global Mechanism functions under the authority and guidance of the Conference of the Parties and is accountable to it. It started its operation in 1998 and it is housed in the headquarters of the secretariat of the UNCCD in Bonn, Germany.

Global Environment Facility

The Convention further requires developed country parties to mobilize funds from the Global Environment Facility (GEF), and from other sources, and to channel the resources to developing country parties in order to meet this requirement[1].

For example, the government of Canada may individually provide funds and technological assistance to the government of Burkina Faso to develop appropriate soil erosion control techniques. The government of Canada may also, jointly with the government of the Netherlands, provide similar support. Developed country parties can also collaborate with the Conference of the Parties (“COP”) under the Convention to create other financial mechanisms and sources for funds from multilateral financial institutions such as the World Bank and the International Monetary Fund.

To allow parties to work with institutions created by the Convention to implement its provisions, each party is required to appoint a representative to serve as the focal point to liaise with the Convention Secretariat and the COP.

[1] GEF and its role are mentioned in Article 20(v) of the text of the UNCCD Convention, its Article 21 envisages a number of financial mechanisms including providing a role for the Global Mechanism.

6. Technical and scientific cooperation

The Convention's obligations for preventing and/or minimizing the effects of desertification and drought make it necessary for parties to have ample accurate and relevant information on various matters.

Availability of accurate and sufficient information and its proper utilization requires research on various aspects of the desertification problem and adoption of appropriate technologies. Capacity to gather information, conduct research and adopt appropriate technologies varies greatly between developed countries, developing countries, and least developed countries.

Therefore, articles 17(1) and 18 require parties, according to their respective capabilities, to promote technical and scientific cooperation in the fields of combating desertification and mitigating the effects of drought through appropriate national and sub-regional institutions.

7. Socio-economic factors

In addition to obligations of all parties, article 5(c) requires parties affected by desertification and drought to take steps and actions within their countries to address the problems of desertification and drought and their underlying causes, including ecological and socio-economic factors. For example, to minimize the intensive cultivation of marginal lands that leads to soil erosion and desertification, parties are responsible for taking measures to reduce the rate of population growth. Further, article 5(a) and (b) obligates them to give priority to addressing the problems. This means, for example, that in government budgets, combating desertification and drought should be given funding priority.

8. National Action Programmes

Articles 9 and 10 of the Convention introduce obligations with respect to National Action Programmes (NAPs), which are key instruments for implementing the Convention. Affected countries are required to develop NAPs that will combat the problem of desertification in their particular country. The NAPs should suit each country's domestic circumstances.

The information to be contained in the NAPs is stipulated in article 10 and includes: factors identified by each party as contributing to desertification and drought; measures necessary to combat them; specification of roles to be played by governments, local communities and other users of natural resources in combating desertification and drought; resources available to combat desertification and drought and necessary resources that are still lacking.

The programme areas for combating desertification and drought that may be included in NAPs are stipulated in article 10(2), (3) and (4) and include: improvement and/or establishment of the early warning systems and food security; development of sustainable irrigation programmes; establishment of institutional and legal frameworks; promotion of capacity-building, promotion of environmental education; and strengthening capabilities for assessment and observation of hydrological and meteorological services.

Once NAPs are developed, article 9(1) requires parties to make them public and implement programmes stipulated in them.

Sub-regional and regional action programmes

To harmonize, complement and increase the efficiency of NAPs, affected countries that are parties to the Convention are also required under article 11 to jointly prepare and implement sub-regional and regional action programmes (“SRAPs” and “RAPs”).

In formulating the SRAPs and RAPs, parties are called upon to ensure that the programmes are trans-boundary in nature, and that they do not duplicate efforts of national programmes but rather complement them and increase their efficiency. The five regional implementation Annexes to the Convention contain specific guidelines on the content, steps and actions that need to be taken depending on the particular circumstances of each region.

9. Research, development and technology

Under article 17 and 18, the Convention requires parties to collect and analyze relevant information and data through studies and research for practical application. Parties are also required to facilitate and strengthen a global network of institutions for collecting, analysing and exchanging information; to link national, sub-regional and regional data and information collection centres to the global institutions; and to promote and support research activities on relevant areas depending on their capacities. In addition, developed countries that are parties to there to are required to develop and transfer relevant technologies, information, know- how and best practices on desertification prevention and control to developing parties as necessary.

National capacities

Article 19 obligates parties to build the capacity of national institutions, especially of developing countries, as well as the capacity of intergovernmental organizations through training, financial support, establishment of extension services and by disseminating information on environmentally sound methods that can facilitate measures to combat desertification and mitigate the effects of drought.

10. National laws

To provide the basis and legitimacy for necessary steps and actions, articles 5(e), 10(4) and 16(g) require parties to strengthen and enforce existing national laws on subjects related to prevention and control of desertification and drought, and to create and enforce relevant laws where laws are lacking. Relevant laws may be created, for example, in the form of acts of parliament, local authority regulations and executive orders and decrees providing for programmes and actions for combating desertification and the effects of drought.

11. Public participation

Further, parties are required by articles 5(d) and 10(e)-(f), among other provisions, to fully involve local citizens, NGOs and Community-Based Organizations (CBOs) in formulating the plan of action for combating desertification and mitigating the effects of drought.

The NGOs and the CBOs have major roles to play in participatory processes, particularly in the organization of local communities for effective participation in combating desertification. The Convention, therefore, advocates a bottom-up approach and stresses the crucial roles of NGOs and CBOs in its implementation.

12. Institutional arrangements

To allow effective implementation of agreed steps, actions and programmes, the Convention establishes a number of key institutions, including a Conference of the Parties, to be the political decision-making body. This supreme body comprises of representatives of all parties to the Convention. Under articles 22, 30 and 31, the COP is the organ responsible for reviewing reports submitted by parties detailing how they are carrying out their commitments as well as facilitating the exchange of information and other matters mandated by the Convention.

Committee on Science and Technology

The steps, actions and programmes that are mandated by the Convention require substantial scientific and technological studies, research and information, as well as development, adoption and transfer of appropriate technologies to developing countries. To these ends, a Committee on Science and Technology (“CST”) was established under article 24 as a subsidiary body to the COP. The Committee is composed of governmental representatives who have expertise and competence in fields relevant to desertification and drought and is the key organ with respect to these matters.

In accordance with articles 18 and 19 of the Convention, functions of the CST include giving advice and providing the COP with information on scientific research, and on specific issues concerning the state of the art in technology that is relevant to combating desertification and mitigating the effects of drought.

The COP may also appoint ad hoc panels to provide, through the CST, relevant information, data and advice on specific issues. The CST also provides advice to the COP on the structure, membership and maintenance of the roster of independent experts as well as suggesting possible research priorities for particular regions and sub- regions.

The other functions of CST relate to data and information collection, analysis and exchange, as well as evaluating the application of science and technology to research projects aimed at the implementation of the Convention. Some of the key issues that the CST has been concerned with in the context of its implementation of the Convention include establishment and testing of benchmarks and indicators, integration of traditional knowledge and technologies with modern science, and establishment of the Early Warning Systems for drought and crop forecasting through remote sensing, atmospheric weather monitoring and water conservation monitoring, among others.

12. Dispute Resolution

Disputes are likely to arise on matters concerning the interpretation or applicability of a global convention such as the Desertification Convention. Issues concerning specific obligations by parties, technology transfer, funding and many others that the Convention authorizes are likely to generate disputes and claims among parties that would require resolution. As a first step, article 28(1) of the Convention requires that a party that has a dispute or claim against another party must inform that other party that there exists a dispute between them. Subsequently, the Convention provides that disputes are to be settled in one of three ways.

First and foremost, disputes are to be settled through negotiation, or other peaceful means of choice to the parties involved. If one or more parties to a dispute do not wish to resolve their claims or disputes through negotiation, they are mandated to pursue other peaceful means, such as conciliation.

Second, under article 28(2)(a), disputes can be settled through arbitration. This provision is applicable to a party that is a government, or a regional economic integration organization, such as the European Union, if, at the time of becoming a party to the Convention, or at any other time thereafter, it declares in writing and submits the written declaration to the Convention Secretariat, stating that it recognizes arbitration as a compulsory means of resolving disputes in relation to any party that also accepts arbitration.

Third, disputes may be resolved by the International Court of Justice (“ICJ”) upon submission to it by the disputing parties. This option is open to state parties if they have submitted written declarations to the Secretariat, stating that dispute settlement between the state issuing a declaration and any other state that also accepts compulsory resolution by the Court shall be submitted to the Court.

If parties fail to resolve disputes between themselves within a period of twelve months of the notification of one party by another that a dispute exists between them, the Convention mandates that the dispute shall be resolved through conciliation at the request of any of the parties involved. This provision applies to governments, as well as regional economic integration organizations that are parties. Disputes shall also be referred to conciliation at the request of a party, if parties to the dispute are governments and one or more of them have not, by declaration, accepted resolution by arbitration or by submission to the ICJ.

Procedures on arbitration and conciliation will be adopted by the Conference to the Parties to the UNCCD as soon as practicable according to article 28.6 of the UNCCD.

13. Measures to resolve questions on implementation

Parties to the UNCCD have the possibility to consider and adopt procedures and institutional mechanisms for the resolution of questions that may arise with regard to the implementation of the Convention (Article 27 of the UNCCD)

The Ad Hoc Group of Experts (“AHGE”) has studied this matter. The AHGE agreed, firstly, that any procedure or institutional mechanism to resolve questions on implementation should be facilitative and non-confrontational in character and, secondly, that such procedures and institutional mechanisms should assist parties to fulfill their obligations under the Convention. The draft terms of reference for a multilateral consultative process are a good starting point for giving shape to a mechanism to address questions on implementation efficiently and to resolve them bearing in mind the nature, scope, objectives and specific characteristics of the Convention.[1]

[1] This draft is contained in document ICCD/COP(9)/13

14. Development since adoption of the Convention

Since the Convention was adopted and entered into force, a number of activities have been undertaken by parties and by the Convention's organs to implement its provisions. For example, many countries have developed, implemented and submitted reports on their NAPs to the Convention Secretariat, in addition to creating and strengthening a variety of domestic laws to implement the Convention.

By December 2015, 131 out of 168 affected country parties would have established or aligned their national action programme. In Africa, all the sub-regions have developed the SRAPs in the context of UNCCD implementation.

In addition, some (sub-)regions prepared resource mobilization strategies to support the implementation of SRAPs. Among other activities, the fourth COP adopted Annex V, the Regional Implementation Annex for Central and Eastern Europe, which became the latest addition to the text of the Convention. The Annex provides guidance to parties in the regions on the development of NAPs and on other matters concerning implementation of the Convention.

Other developments

Other notable developments of the Convention since its adoption include:

- The establishment of the Committee for the Review of the Implementation of the Convention (“CRIC”);
- COP-6 accepted the GEF as a financial mechanism of the Convention, in 2005 a MOU between the GEF and the Convention was concluded as enhanced collaboration and, in 2010, GEF Instrument was amended to list UNCCD among the treaties for which the facility is playing the role of financial mechanism.
- Convening the first meeting of the Group of Experts in Hamburg, Germany, in November 2002.
- In 2005, the establishment of Ad Hoc Working Group to improve the procedures for communication and information, as well as reporting.
- In 2007, COP-8 adopted the 10-year strategy plan to enhance a implementation of the Convention (The Strategy). The Strategy provides a global framework with the aim to forge a global partnership to reverse and prevent desertification/land degradation and to mitigate the effects of drought in affected areas in order to support poverty reduction and environmental sustainability.