



**Improving International Environmental Emergency
Governance Systems
Discussion Paper
Rosersberg Initiative Working Group
Tunis, 3-5 December 2007**



EU/AG/RIWG.6
18 November 2007
English only

PURPOSE

This document proposes ideas and options to improve international governance systems to respond to environmental emergencies, for discussion at the 3-5 December 2007 meeting of the Rosersberg Working Group. It is intended to be read in the context of other background documents prepared for this event.

CONTEXT

At the 7th meeting of the Advisory Group on Environmental Emergencies (AGEE 7), held in June 2007, governments and other participants agreed to explore measures to improve international preparedness for and response to environmental emergencies. This decision was based on analysis presented to meeting participants indicating both a need and opportunity for such activities (see related AGEE 7 documents, in particular *Strengthening the International System for Environmental Emergency Response*). Three priority themes were identified, including Improving International Environmental Emergency Governance Systems (Thematic area 2).

As an initial measure to improve international environmental emergency governance systems, a consultant was engaged to research and draft a *Baseline Review on Strengthening International Environmental Emergency Governance Systems*. This *Baseline Review* will survey selected relevant international and regional arrangements and, based on this survey, recommend changes and improvements for the international environmental emergencies response area. This *Baseline Review* is also surveying experiences from other areas – including nuclear accidents, international search and rescue mechanism, and civil-military coordination – to identify practical models that could inform measures to improve international systems governing response to environmental emergencies. The review focuses on notification, request for assistance, and provision of assistance, as well as broader governance considerations. A table of potentially relevant international and regional governance systems are set forth in the table, below.

Observations and Analysis

Existing Challenges

The paper *Strengthening the International System for Environmental Emergency Response*, which governments and others endorsed at AGEE 7, highlighted a number of key challenges in the existing international and regional systems governing response to environmental emergencies. These include:

- The ***lack of a comprehensive international system and procedures for notification*** (including notification both to (1) a central Secretariat and (2) to other countries).
- The ***lack of a comprehensive international system and agreed procedures for requesting, offering, and providing international assistance*** (including request and offer through (1) a central Secretariat and (2) other countries).
- The ***lack of regulations to facilitate the entry, stay, and exit/re-export of experts, equipment, and materials***.
- ***Uncertainties as to what constitutes an environmental emergency***.
- ***Uncertainties as to the obligations of the requesting country and the assisting countries***.
- ***Limited official recognition*** for the role and responsibilities of the United Nations in mobilizing and coordinating international assistance. UN GA Resolution 44/244 does recognize the need to strengthen international cooperation in monitoring, assessing, and anticipating environmental threats and rendering assistance in cases of environmental emergency. However, this Resolution does not provide the explicit mandate or operational details that other institutions possess for responding to environmental emergencies.

The paper noted – and the AGEE concurred – that these challenges resulted in part from the fact that the international regime governing responses to environmental emergencies was comparatively less developed than those governing certain other humanitarian issues. This lack of an international regime means that there is no standardized process for providing notification, requesting assistance, providing assistance, or creating conditions otherwise conducive to addressing environmental emergencies. This, in turn, creates uncertainty and confusion, leading to unnecessary delays in response.

In addition, ongoing research into governance systems for responding to environmental emergencies has highlighted a few other key challenges, including:

- A general ***lack of detailed guidance*** for States, international organizations, NGOs, and other institutions regarding specific procedures, standards, and arrangements for notification, request for assistance, and provision of assistance in response to an environmental emergency.
- There is a ***lack of awareness regarding existing instruments and requirements***, which hinders their effective implementation.
- ***Coordination among organizations*** is not defined, and can lead to confusion and inefficient use of resources, especially where there are issues of “turf.”
- Most existing governance systems do not apply to ***land-based sources of marine pollution***, creating a gap in mandates.
- Practically all of the existing international environmental emergency governance systems explicitly or implicitly do not apply to incidents during or arising from ***war, armed conflict, or other hostilities***. Accordingly, there is uncertainty regarding mandates and procedures in such contexts. The lack of a formal, comprehensive system for environmental emergencies that focuses on the nature and effects of environmental emergencies, rather than the specific source or context of the emergency, means that .

- Many international environmental emergency governance systems do not address ***accidents that are severe, but not necessarily transboundary*** (often there is a requirement for actual or potential transboundary effects).

Questions for Discussion

- Are there any important challenges that are not listed above?
- Are any of the challenges listed above of secondary or tertiary concern?
- Considering the challenges that have been identified, which ones:
 - Are the most important?
 - Apply most broadly (to different emergencies, countries, levels, contexts)?
 - Are the most intractable?

Analysis and Lessons Learned

The wide range of approaches – international and regional, binding and non-binding, institutional and normative, general and specific, – provides a rich context in which to contrast experiences and identify lessons learned. Ongoing research for the *Baseline Review* has highlighted a number of initial lessons learned, which are outlined below:

- Many existing international governance arrangements are directly or indirectly ***relevant*** to considering what an effective international arrangement governing response to environmental emergencies might look like. Some of these arrangements address topics that are not, strictly speaking environmental emergencies (e.g., nuclear accidents and radiological emergencies, search and rescue, and civil-military cooperation). In other instances, the term “emergency” – let alone “environmental emergency” – was not used, but the approach was directly relevant (e.g., for many river basin agreements). Sometimes, the term “environment” was mentioned, but as part of a much broader purpose (e.g., Tampere Convention and the Community Mechanism).
- There are sometimes questions of ***applicability***: does a particular arrangement apply to a specific need in a specific context? This is particularly true where multiple institutions may have a potential mandate, but such a mandate is unclear and it is unclear which institution has the lead in responding to a particular environmental emergency.
- The ***clarity and completeness*** of terms varies greatly. In some instances, key institutions are noted, but their responsibilities are not stated.
- With respect to ***notification*** of an emergency, notification may be required to an international organization, other states, or both (or even NGOs). The most effective arrangements seem to require an international institution to be notified. Similarly, many of the more effective regimes provide detailed provisions for notification. Often, though, the time frame for requirement is qualitative (e.g., “immediately”, “without delay”, or “as soon as possible”), rather than quantitative. A few arrangements also provide for updating, either encouraging or requiring periodic dates. To facilitate notification, reporting, and communication, some institutions have adopted standardized forms (e.g., IMO/OPRC). Despite its central importance for communication, international governance systems rarely specifically address in what language communications should be.
- With respect to ***request for assistance***, there is no particular consensus approach for ensuring that requests are made to a particular central body in a timely manner, that such requests are circulated, or that Member States respond to the requests within a specific timeframe. There are some specific experiences in coordinating requests for assistance,

though, that could guide further improvement in this matter (e.g., Tampere, the Community Mechanism, and the IAEA).

- With respect to ***provision of assistance***, it is relatively more common for coordination of provision of assistance to be facilitated by an international organization, although on-the-ground coordination is usually done by the host/assisted country. Some arrangements provide detailed legal and/or administrative measures regarding movement into, through, and out of territory of personnel, materials, cargo, and equipment (e.g., Tampere Convention, Oslo Guidelines and related Model Agreement, and IMO). Few instruments explicitly consider issues of confidential information; the IAEA Convention on Assistance is one of the rare ones (likely due to sensitive political and national security issues related to nuclear plants). There are also many good experiences from civil-military context.
- A number of conventions provide ***guidance*** documents. These are typically oriented to States, but also may be relevant to international organizations. These guidance documents have proven useful as a model, informing bilateral agreements and national legislative and institutional frameworks.
- The range of approaches can also inform decisions regarding key ***governance*** issues. For example, the *responsible actors* may be States (per most of the arrangements studied), international organizations, and/or private actors (e.g., IMO). Some IMO conventions include provisions that require States to investigate and to notify the IMO if they learn anything about *how to improve* the operation of the Convention, including potential amendments to the Convention. These provisions may be at least partially responsible for the continual improvement, refinement, and amendment of IMO instruments. Moreover, there are evident benefits of having a *well-funded, high-profile* international organization administer a particular arrangement. There are also options of having an *active or passive role* for international organizations: active role in notification, processing requests for assistance, and coordinating the provision of assistance; serving as a clearing house for information; organizing COPs; monitoring implementation; etc.

Questions for Discussion

- In your experience, what are the practical implications of the different approaches? What works well; what does not? In what circumstances?
 - What are the relative implications of an active or passive central body?
- Are there key lessons learned that are not listed above?
- Of all the lessons learned, which are the most important in your opinion?

Recommendations for Next Steps

There have been a growing number of environmental emergencies, and it is expected that environmental emergencies will continue to grow, particularly due to climate change. Unfortunately, the current international governance structures in place to respond to environmental emergencies are fragmented. To the extent that there are formal institutional mechanisms in place, they tend to be limited in geographic scope (e.g., regional) or thematic focus (e.g., marine). As outlined above, the international governance system faces a number of other challenges to effectively responding to environmental emergencies, including awareness, lack of detailed guidance, and lack of awareness (among other issues).

The Joint UNEP/OCHA Environment Unit plays a de facto role in trying to coordinate responses to environmental emergencies, but this is as yet a largely informal arrangement. In addition to

strengthening the Joint Environment Unit, there are many other measures that could strengthen the international governance systems for responding to environmental emergencies.

The research to date for the *Baseline Review* shows that there is a significant body of experience and innovation over the past few years, but little has been replicated or scaled up. The lessons learned from these different approaches and experiences can inform measures to strengthen governance systems for responding to environmental emergencies.

Recommendations for next steps in strengthening international environmental emergency governance systems include:

- Develop, field test, finalize, and disseminate **guidelines** or other guidance. These guidelines should be based on practices to date, building up on and scaling up effective approaches and avoiding or caveating approaches that experience has shown to be problematic.
 - Guidelines could be operational (e.g., for international organizations).
 - Guidelines could also provide guidance to States (e.g., regarding legal and institutional frameworks, as well as management arrangements).
 - The guidelines could be broad or they could focus on particular issues, such as notification and/or request for and provision of environmental emergency assistance.
 - There could also be a standard MOU or agreement to can facilitate bilateral and regional agreements on emergency response (e.g., by neighboring countries). Such a model MOU may be a stand-alone instrument, or it may be annexed to guidelines or another instrument.

- **Strengthen regional governance systems** for responding to environmental emergencies. Regional governance structures are becoming increasingly sophisticated and effective in areas ranging from economic integration (relevant to the movement of personnel, equipment, and materials during environmental emergencies), to harmonization of environmental laws, to notification and provision of assistance in responding to health emergencies. In recent years, a number of regional bodies have developed and are trying to implement arrangements for responding to environmental emergencies. Measures to strengthen regional governance systems could include:
 - Provide technical assistance to regional bodies in developing and improving regional instruments (conventions, protocols, guidelines, MOUs, etc.) on environmental emergencies.
 - Provide capacity building programs for staff and officials in regional bodies on responding to environmental emergencies. These programs could address legal and institutional frameworks, as well as practical matters.
 - Work with regional bodies to develop guidance documents, capacity building programs, and technical assistance arrangements for States in the region.

- Consider options for **addressing unresolved issues** and gaps in existing international systems governing response to environmental emergencies.
 - These gaps include, *inter alia*:
 - the governance gap relating to bringing samples into a country.
 - environmental emergencies during or arising from war, armed conflict, or other hostilities;
 - land-based sources of marine pollution;

- institutional coordination; and
 - accidents that are severe, but not necessarily transboundary
 - Options could include, *inter alia*:
 - Research and conceptual development regarding potential arrangements to address specific issues;
 - Pilot testing particular approaches;
 - Capacity building; and
 - Developing guidance.
- Develop and implement a system for ***certifying teams or individuals*** that respond to environmental emergencies. This could draw upon experiences in certifying Search and Rescue (SAR) teams. The certification could be for specific issues (e.g., water pollution, oil spills, air pollution, etc.), or it could encompass a broad “environmental emergencies” certification for teams.
- Establish a ***center to provide technical assistance and capacity building***. This could be within an existing institution, such as the Joint UNEP/OCHA Environment Unit (e.g., as a targeted activity), or it could be at an external institution (such as a university) but operate in partnership with international organizations such as the Joint Environment Unit. The scope and operation of the center could be informed by a similar initiative ongoing to assist Member States in implementing the UNECE Industrial Accidents Convention (administered by the Convention Secretariat). Such a center could expand upon existing capacity building programs that the Joint Environment Unit currently conducts, and also provide technical assistance to countries seeking to establish effective procedures and institutions for notification, request for assistance, and provision of assistance.
- Undertake ***capacity-building and awareness raising***. Capacity building and awareness raising could link to some of the other measures mentioned above, including guidelines (which could provide the conceptual and substantive framework), strengthening regional governance systems, certifying teams or individuals, addressing unresolved issues, and establishing a center. Capacity building and awareness raising could target different audiences, including:
- *Legislative drafters and parliamentarians*
 - *Emergency responders*
 - *Customs and immigration officials*. Such an effort could build upon the Green Customs Initiative, which UNEP coordinates, with the active participation of the Secretariats of CITES, Montreal Protocol, Basel Convention, POPs/Stockholm Convention, PIC/Rotterdam Convention, Cartagena Protocol, and the Chemical Weapons Convention, as well as INTERPOL and the World Customs Organization. The Green Customs Initiative seeks to provide coordinated capacity building for customs officers for implementation of the relevant portions of specific multilateral environmental agreements. The Initiative could provide the basis for also training customs officers on issues related to environmental emergencies, particularly with respect to the import, export, and re-export of instruments, equipment, and materials (as well as the immigration and emigration of experts).
 - *Environmental experts* Capacity building of environmental experts, particularly regarding matters of emergency response, could broaden the pool of experts who

are available. This could be particularly useful in building regional capacity to respond to environmental emergencies within a region.

- Obtain a ***political endorsement or mandate*** for improving international environmental emergency governance systems. Such a measure could build upon prior resolutions such as UNGA Res. 44/244 (1989) and UNEP Governing Council Decisions 15/10 (1989), 18/19 (1995), 19/9 (1997), 20/8 (1999), 21/17 (2001), and 22/8 (2003). A new resolution by the UN General Assembly could provide a broad mandate to the Joint Environment Unit, acknowledging its experiences to-date, codifying the essential aspects of existing practice, and encourage the further strengthening of international and regional systems governing response to environmental emergencies. Such a resolution could also facilitate institutional coordination more effectively than could a similarly worded UNEP GC decision.
- Develop a new ***international legal instrument***. This could be a convention, treaty, protocol (perhaps to an existing treaty), or other binding instrument. Such an instrument could
 - (1) address institutional matters formally constituting a body or mandating a body to address environmental emergencies writ large;
 - (2) set forth standards, procedures, and other requirements/commitments regarding response to environmental emergencies; or
 - (3) some combination of administrative and normative provisions.

An instrument could be new, or it could build upon existing international instruments (for example in the form of a protocol). If this options is pursued, it may be worth considering provisions that facilitate the ongoing learning from experiences and improving the convention (e.g., as with the self-improvement provisions found in the IMO context).

In considering and pursuing the various options for next steps, it should be noted that there are often synergies among different measures. For example, guidelines can provide the framework for technical assistance, capacity building, and awareness raising. They can also, in certain circumstances, provide a soft approach to the eventual development of international legal instruments.

NOTE: *Some of the recommendations are similar to and could be coordinated jointly with recommendations in the other two Thematic Area groups. The participants may consider options to do so.*

Questions for Discussion

- Completeness
 - Are there particular measures for strengthening the international system governing response to environmental emergencies that are missing from the above list of measures?
 - Should any of the measures listed above be removed or caveated? If so, why?
- Priorities
 - Of the various measures, which are the top priorities for the long-term?
 - Which are the top priority measures for the short-term (i.e., which could be undertaken quickly and relatively easily, and still make an impact – the “low-hanging fruit”)?
- Guidelines

- Would guidelines be useful?
- If so, what should the scope be? Would it be more useful to have guidelines that provide a broad framework or targeted guidelines on a specific topic?
- Who should develop the guidelines, and at what level (e.g., global, regional, subregional, ...)?
- What would the value added be of additional guidelines, considering the guidelines that currently exist?
- Are there particular measures that could be taken to enhance the use of the guidelines, such as technical assistance or capacity building on the guidelines?
- Regional Structures
 - Are there particular regions where strengthening regional governance systems would be a high priority for improving response to environmental emergencies (e.g., where existing structures are likely to be effective)?
 - Should strengthening focus on notification, request for assistance, provision of assistance, all three, or a subset of issues?
 - Which measures would most strengthen regional governance structures? Which measures would most likely be of interest to regional governance structures?
 - What should be the relationship between regional structures and global arrangements and institutions?
- Addressing Unresolved Issues
 - Are there any other unresolved issues that should be included in this list? Any that should be deleted?
 - Are there any other options for addressing unresolved issues that should be included? Any that should be deleted?
 - Which are the priority issues?
 - What would be the best option(s) for addressing the priority issues?
- Certification
 - What would be the appropriate scope for certification? Broad or issue/media-specific? Team or individual?
 - Who would conduct the certification?
 - Would it be necessary to update the certification periodically? If so, how often?
 - What would be the relationship between those who are certified and those who are currently listed on rosters of experts? Would the listed experts need to get certified eventually? Would they be grandfathered?
 - What would be the incentives for a person or team to be certified?
 - Would there need to be an arrangement by which certified teams would be pre-cleared for immigration? Would there be political or diplomatic concerns with such an arrangement?
- Center
 - If pursued, should such a center be housed within the Joint Environment Unit, or externally? If external, what should the arrangement be between the center and the Joint Environment Unit (e.g., MOU, formal affiliate, partner institution, etc.)?
- Capacity Building and Awareness Raising
 - Are there other constituencies that should be considered? [NGOs, international organizations, private sector, ...]
 - Who should be the priority constituencies?
 - What should be the priority topic(s)?
 - How should the capacity building materials and methodology be developed? Delivered?
- Political Mandate

- Would a UN General Assembly Resolution be the most effective political mandate? What might be other options?
- If it is determined that a UNGA Resolution is desirable, what should be the content of the resolution?
- International Instrument
 - Would a desirable instrument be politically feasible at this time? Would a politically feasible instrument be desirable?
 - What would be the purpose and scope of the instrument?

Finalizing the Baseline Review

The *Baseline Review on Strengthening International Environmental Emergency Governance Systems*, currently under development by a consultant, is expected to be finalized in the First Quarter of 2008. The Review relies heavily on examination of existing international and regional governance systems for responding to environmental emergencies. These case studies are a combination of desk research and interviews. In addition, the consultant is supplementing this analysis with broader academic and practitioner-oriented publications.

In light of the discussions so far – and particularly regarding key challenges, lessons learned, and recommendations – we would appreciate your guidance with respect to finalizing the Baseline Review.

Questions for Discussion

- Considering the various international and regional arrangements governing environmental emergencies and other contexts (see table, below), are there any other experiences in particular that should be considered, if time and resources permit? Which ones and why?
- For a select number of the international and regional governance systems, we would like to include an example of how the particular governance system has operated (or been used) in response to a specific environmental emergency.
 - For which international and regional governance systems is such an example of application a priority?
 - For those priorities, could you suggest any specific experiences that should be considered?
- Are there any specific publications (electronic or in print) that you would recommend the consultant to consider?

International and Regional Environmental Emergency Governance Systems and Other International Arrangements of Potential Interest

Following is a list of international and regional conventions, agreements, guidelines, and institutional arrangements that either (1) address response to environmental emergencies or (2) are from another context but may have some lessons learned that are relevant to improving international governance systems for responding to environmental emergencies.

International Arrangement	Case Study*	Status*	Comments
Agreement among the Governments of the Participating States of the Black Sea Economic Cooperation (BSEC) on Collaboration in Emergency Assistance and Emergency Response to Natural and Man-Made Disasters (1998)		?	
ASEAN Agreement on Disaster Management and Emergency Response (2005)	U	B	
Charter on Cooperation to Achieve the Coordinated Use of Space Facilities in the Event of Natural or Technical Disasters (2000)		?	
Community Mechanism for Civil Protection, including the Monitoring and Information Centre (MIC) (2001/2003/2007)	U	B	
Constitution Agreement of the Coordination Center for the Prevention of Natural Disasters in Central America (CEDPRENAC) (1993)		?	
EU Directive 82/501/EEC (“Seveso Directive”) (1982), Directive 96/82/EEC (“Seveso II Directive”), and Directive 2003/105/EC on Chemical Accidents Prevention, Preparedness, and Response		B	
Framework Convention on Civil Defense Assistance (2000)		B	
Global Fire Monitoring Center		N	
Inter-American Convention to Facilitate Disaster Assistance (1984)		B	
IAEA Convention on Early Notification of a Nuclear Accident (1986)	U	B	Does not address environmental emergencies, but some good experiences and lessons learned.
IAEA Convention on Assistance in	U	B	Does not address environmental

* The case studies undertaken by the consultant are designated as (U)nderway and (P)lanned.

** Legally (B)inding or (N)on-binding.

Case of a Nuclear Accident or Radiological Emergency (1986)			emergencies, but some good experiences and lessons learned.
(International Federation of Red Cross and Red Crescent Societies) Code of Conduct for the Red Cross/Red Crescent Movement and Non-Governmental Organizations in Disaster Response Programs (1994)		N	
(International Federation of Red Cross and Red Crescent Societies) Draft Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (2007)	U	N	The Guidelines are expected to be approved in November 2007. The Guidelines are broader than environmental emergencies, but clearly include them with the scope of the Guidelines.
IMO Conventions (including 1990 OPRC, 2000 OPRC-HNS, 1974 SOLAS, 1973/78 MARPOL, and 1979 SAR)	U	B	IMO administers dozens of conventions and protocols, some directly relevant (in whole or in part) to environmental emergencies.
International Search and Rescue Advisory Group (INSARAG) Guidelines (2002/2007)	U	N	Does not address environmental emergencies, but some good experiences and lessons learned.
Max Planck Institute for International Law and Comparative Law, Model Rules for Disaster Relief Operations (1982)		N	
NATO Euro-Atlantic Disaster Response Coordination Centre (EADRCC)		N	
Oslo Guidelines on the Use of Military and Civil Defence Assets in Disaster Relief (OCHA)	U	N	Broader than environmental emergencies, but applicable and with good approaches and lessons learned.
River Basin Agreements (various)	U	B	So far, we have identified 13 potentially relevant basin agreements, as well as the SADC protocol and Helsinki Convention.
Sphere Project Humanitarian Charter and Minimum Standards in Disaster Response (2000/2004)		N	
Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations (1998)	U	B	Broader than environmental emergencies, but applicable and with good approaches and lessons learned.
UNECE Convention on the Transboundary Effects of Industrial Accidents	U	B	
UNITAR Model Rules for Disaster Relief Operations (1982)		N	
World Health Organization arrangements		N	Extensive experience in responding to health emergencies, including

			notification, request for assistance, and provision of assistance.
--	--	--	---