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**Ukrainian Environment Policy and Future SIDA Assistance in the Sector**

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## **Environmental Challenges: Effects on the Physical Environment and Human Health**

Environment policy is a major challenge for Ukraine. The environment remains in a critical state across many parts of the country with serious consequences both for human health and the continuing degradation of the natural environment. Ukraine ranked 137<sup>th</sup> place out of 142 countries compared in the Index of Ecological Stability published by the World Economic Forum in 2002.

Ukraine – particularly Eastern Ukraine – was a heavily industrialized part of the Soviet Union. In consequence, independent Ukraine inherited swathes of polluting heavy industries that have had a hugely detrimental effect on the quality of air and drinking water across much of the country. In some areas, the level of pollution in the air exceeds the maximum allowable concentration of 10 mg/m<sup>3</sup>. Cities with exceptionally poor air quality include Kyiv, Kharkiv, Dnipropetrovsk, Donetsk, Kryviy Rih, Lviv, Mariupol, Odesa and Zaporizhia. According to the UN, 1,228 towns and villages in Ukraine have no access to regular sources of safe water.

The knock-on effect on human health of environmental degradation is appalling and causes a variety of chronic diseases – particularly respiratory diseases such as bronchial asthma – that affect both adults and children in Ukraine. Genetic diseases caused by pollution also affect new-born children, particularly in steel producing areas where pollution is worst. Given that so much toxic waste has been either simply buried in the ground or dumped in rivers, pollution has entered part of Ukraine's food supply. According to the UN, up to 40% of the total territory of Ukraine is degraded land.

In short, the effect of industrial pollution on the physical health of the Ukrainian population and the natural environment in some parts of the country is dreadful.

In addition to industrial pollution, the deterioration of municipal infrastructure in many urban and rural areas has a negative effect on the quality of sanitation facilities, causing outbreaks of dysentery in some extreme cases and more generalized lack of clean drinking water.

Ukraine also suffers from radioactive pollution, caused by the significant nuclear industry inherited from the Soviet period, including 15 reactors and 3 uranium mines. The long-term effects of the Chernobyl nuclear power plant disaster in 1986 are well-known. The costs of containing the spread of pollution from Chernobyl will remain high for the foreseeable future. Securing Ukraine's other nuclear reactors will also prove expensive.

The above are just some of the major challenges for Ukrainian environmental policy over the next few years. Whilst some improvements have undoubtedly been made over the past 18 years in both reducing environmental degradation as well as cleaning up the environment, much remains to be done.

An obvious problem for environment policy is that in a low middle-income country such as Ukraine, environmental concerns are usually a secondary priority for the state behind increasing the pace of economic development. It is also to be anticipated that the likely severe effect of the world economic crisis on Ukraine in 2009 and 2010 will distract attention from the importance of environmental protection.

It is worth pointing out from the outset that environmental protection is an area where the Ukrainian state needs to work closely with its neighbours, since pollution does not respect national boundaries. As will be seen later on, this is an area where international donors can have a very useful impact.

In essence, Ukraine faces two major problems in the field of environmental policy. First of all, environmental policy-making needs to move away from being a separate policy domain that concentrates too much on ex post repair of environmental damage towards ex ante planning that embeds environmental protection into policy-making across the whole swathe of state activity. Secondly, as is the case in so many other areas of Ukrainian government policy-making, the state needs to shift its attention away from law-making and regulating towards implementation of environmental regulations on the ground.

The structure of this paper is as follows. First, it examines environmental policy-making and implementation in Ukraine, investigating the weaknesses of the current situation. Second, it examines donor/lender activities in this area, looking in particular at the work carried out by the UNDP, the EIB, the EBRD as well as that that is envisaged on Ukraine's path towards European integration. Third, it looks at where SIDA could have the maximum impact in this field.

Before moving onto the main content of this paper, it is worth mentioning that many of Ukraine's environmental problems – in particular its level of carbon emissions – stem from its very low level of energy efficiency. However, energy efficiency is such a huge area of concern in Ukraine that it will be treated separately in a subsequent paper.

## **I. The Environmental Policy of Ukraine: at the periphery of state priorities**

- **Ukraine has extensive legislation on environment protection**

Ukraine has extensive legislation concerning environmental policy. Sustainable development has been proclaimed a priority for Ukraine and enshrined in numerous domestic and international documents. The Basic documents are Ukraine's Constitution, Law on the Protection of Environment (1991) and the Main Aspects of State Policy on the Environment, Natural Resources and Environmental safety (1998). Ukraine is a member of the main international conventions and ratified the Kyoto protocol on the reduction of greenhouse gases

in 2004. A number of national programmes have been approved, such as the national programme for environmental recovery of the Dnipro river basin and improvement of drinking water quality, the state programme for establishing a national environmental network in 2000-2015 and so on. Mechanisms of implementation of some programmes have been developed with international assistance (e.g. Canadian assistance in case of the Dnipro basin programme).

- **Low level of enforcement: too many priorities, too little funds**

Although the system of environmental legislation is based on the principles of international law, it does not provide for direct legal consequences. The main problem is that environmental regulation in Ukraine is a diffuse and disorganized mass of secondary legislation. This leads to multiple interpretations of basic legislation and an unclear division of powers among the national, regional and sectoral levels.

A majority of the approved national programmes have not been implemented, mainly due to a lack of budget funding. The reason lying behind this is that those programmes have more priorities and planned actions that could be financed by the state budget, while there is a lack of other forms of funding. There is also a paradoxical situation where, every year, there are complaints about the lack of funding for environmental policies, and yet independent audits show that there is systemic abuse of public funds.

There are few monitoring and evaluation mechanisms, thus it is impossible to assess the potential of international and national programmes. In short, actual practice in enforcing environmental legislation is both selective and symbolic, neutralizing any advantages.

- **Lack of comprehensive policy of sustainable development**

There is a strong need for the “environmentalisation” of sector policies and the legislation of Ukraine as well as the introduction of environmental-based regulation of business activity in Ukraine. Ukraine still has not adopted a national strategy on sustainable development that ensures a cross-sector approach towards sustainable development. An adoption of such a strategy is envisaged by the legislation of Ukraine and the EU-Ukraine Action Plan signed in 2005.

Ukraine also lacks a comprehensive policy in some crucial sectors as, for example, radioactive waste management. Though Ukraine is a country that relies extensively on nuclear energy production and has problems with Chornobyl NPP and alienation zone, it does not have a comprehensive policy of radioactive waste management. This is worrying since only small share of Ukrainian radioactive waste is recycled; the rest is dumped. A comprehensive policy is needed to deal with this waste material.

- **Under-reformed system of environmental management: state-centred, centralized and nondemocratic**

The current system of environmental management is too centralized and insufficiently democratic. Furthermore, the state has a monopoly over environmental responsibility that has caused a weakening of consumer responsibility on the part of industry, agriculture and individual consumers. Pollution fees are supposed to be levied on environmentally damaging industries and these are supposed to be ring-fenced for environmental protection. In practice, however, enforcement – as is the case in so many other areas in Ukraine – is lax and uneven. In other words, the principle that ‘the polluter pays’ does not really apply. In consequence, there is no real incentive for polluters to take steps to reduce their impact on the environment. Thus a national system of environmental protection as a comprehensive system of management involving public authorities, business and society has yet to be formed.

The Ministry for Environmental Protection, Ministry of Economy and Ministry of Labour and Social Policy of Ukraine each have their share of responsibility for the introduction of principles of sustainable development and harmonization with EU standards. However, governmental instability has resulted in an absence of reforms. The coordination commissions that were established in the Cabinet of Ministers and at the Presidential Secretariat did not have enough powers for inter-ministerial coordination or failed to begin their work.

The way environmental management functions remains incredibly weak. There is still no properly functioning dedicated environmental agency, which leads to the scattering of oversight functions among various ministries and agencies. Institutional reform aimed at improving the collection and analysis of environmental data remains slow, reducing the effectiveness of the current environmental monitoring system.

The functions of the Ministry for Environmental Protection with its regional branches and specialized divisions are limited by the legislation to inspection and control. The Ministry is not tasked with policy development and strategic planning in transition to sustainable development, coordination of European integration policy on environmental issues or environmental-based economic regulation.

The use of instruments involving stakeholders, such as businesses, research institutes, NGOs, and local government in the formulation and implementation of environmental policy is also historically weak. The Ministry for Environmental Protection limited public involvement by the establishment of a civil society council as a consultative body at the Ministry. However, little information exchange circulates between the two bodies, and there is little openness or public participation in the decision-making process.

There is a lack of regional environmental policies, even though the existing initiatives at the regional level have demonstrated a considerable potential. One of the examples is the national action plan for hygiene and the environment for 2000-2005 elaborated by governmental institutions, research institutions and non-governmental organizations. Unfortunately, only one fifth of this plan has been implemented.

To sum up, for Ukraine to have an effective environmental policy, three measures are needed. First, there is still a need to modernize the existing legislation on a national system of environmental management. Second, far more resources need to be allocated to ensure that environmental protection legislation can actually be implemented. Third, appropriate monitoring and compliance systems need to be established so that the state has both reliable information to draw upon in assessing the efficacy of environmental protection legislation, and effective means of tackling non-compliance with environmental protection.

## **II. International Donors and Ukraine's Environment Policy**

### **UNDP**

The UNDP runs one of the largest assistance programmes to Ukraine in the field of environmental protection. Its focus in recent years has been on assisting Ukraine in the formulation of a Strategic Environmental Assessment (SEA), the main aim of which is to improve the process of integrating environmental considerations in the policies, plans and programmes of the government, thus ensuring that environmental factors are considered as well as economic and social ones. The UNDP funds a number of projects in the field of environmental protection, such as:

- The Crimea sustainable development plan
- The Dnipro Basin Environment Programme
- The Climate Change and Agriculture Programme
- The Energy Efficiency in the Energy Sector Programme
- The Wind Power Programme
- The Greenhouse Gas Reduction Programme, run as an energy efficiency pilot project in Rivne

The UNDP identified three main problems for effective environmental policy-making in Ukraine: inadequate institutional capacity; inadequate financing; ineffective coordination between ministries; and, insufficient cooperation across borders.

### **EBRD**

Environmental protection is not identified by the EBRD as a specific priority, but rather falls under the heading of improving Ukraine's overall level of energy efficiency. Nonetheless, five main challenges in the field of environment policy are identified by the EBRD, namely:

- Improving environmental policy-making and implementation
- Mobilizing financial resources for the environment
- Integrating environmental concerns into planning by sectors, such as industry, transport, energy and agriculture
- The promotion of sustainable development

Most of the EBRD's lending is in the field of energy efficiency, although funds are also set aside for nuclear safety, the steel industry and the municipal environmental sector.

## EIB

In recent years, the European Investment Bank has only lent a very small fraction (0.5%) of its overall budget to Eastern Europe and the CIS, nonetheless, €500 million was set aside in 2005–07 for Russia, Belarus, Moldova and Ukraine for investments in environmental and other priorities, with €3.7 billion set aside for the period 2007–13. No projects have yet been completed in Ukraine in the environmental sector.

## European Union

The European Union envisages the gradual harmonization of Ukrainian law with EU environmental legislation. This is meant to be achieved by the application of international experiences in pollution control, the promotion of bottom-up initiatives in communities and regions as well as the development of environmentally sound practices, such as integrated ecosystems management, waste management and ecotourism.

The cost of full implementation of the *acquis* in the field of environmental protection would be astronomical for Ukraine, since the Union's standards are designed for highly developed West European countries. In 2006, the World Bank estimated that the cost of implementing European environmental protection standards in Ukraine would be about \$15 billion between 2006 and 2015. This figure is, however, likely to be an underestimate, given the experiences of the new Member States of the European Union. Based on the costs incurred by these states, a more accurate figure on an annualised basis would be between 5 and 10 per cent of Ukraine's annual budget.<sup>1</sup> Ukraine can, of course, decide what

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<sup>1</sup> See Alan Mayhew, 'Ukraine and the European Union: Financing Accelerating Integration', UKIE: Warsaw, November 2008, p. 30–31.

legislation it chooses to adopt first but this does not detract from the magnitude of the task before it.

The negotiation of an Association Agreement with the European Union gives Ukraine the opportunity to redesign its environment policy and to raise this policy at the list of political priorities. It also opens the way to improved implementation of environmental law. It is however up to Ukraine and its government to determine its environmental strategy and thus to ensure that it can be financed. In determining its optimal strategy, experienced countries such as Sweden can offer considerable assistance.

### **III. Priorities for SIDA**

Given the size of SIDA's assistance to Ukraine, the funding of very large-scale environmental protection programmes along the lines of the Dnipro Basin Environment Programme is inappropriate since the cost of such projects run to billions of euros. SIDA aid would be better targeted at addressing the three



strategic weaknesses of Ukrainian environmental policy identified in section II of this paper, namely:

- i) The modernization of the existing legislation on a national system of environmental management.
- ii) Allocating more resources to ensure that environmental protection legislation can actually be implemented.
- iii) Establishing monitoring and compliance systems so that the state has both reliable information to draw upon in assessing the efficacy of environmental protection legislation, and effective means of tackling non-compliance with environmental protection.

The first and third fit most comfortably within the kind of activities that SIDA can undertake. There are a number of important projects that SIDA could undertake within this field, for example:

1. Assistance to improve the quality of domestic level environmental decision-making, particularly coordination between ministries. SIDA could commission a study on the current status of coordination between Ukrainian ministries in the field of environmental protection that would offer recommendations on how best to improve performance in this field.
2. The funding of a pilot public education/information programme targeting Ukrainian consumers with a view to raising public awareness of environmental issues, with a focus on how consumers and businesses can reduce energy consumption. Public pressure for higher environmental standards is likely to be one of the most effective ways of ensuring that the government treats environment policy as a priority.
3. Assistance with regulation to improve compliance with environmental protection legislation, in particular on the part of businesses. More detailed research is needed to establish how businesses manage to avoid paying pollution penalty charges and to provide practical advice on how this situation can be changed to improve compliance.
4. Assistance to improve the quality of regional intergovernmental coordination of environmental decision-making. SIDA could commission a study on the current status of coordination between Ukraine and the governments of its neighbours in the field of environmental protection that would offer recommendations on how best to improve performance in this field.