

ECONOMIC COMMISSION FOR EUROPE

**WORKING GROUP ON A POSSIBLE LEGALLY BINDING INSTRUMENT ON
AFFORDABLE, HEALTHY AND ECOLOGICAL HOUSING IN THE UNECE REGION**

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Possible Elements of a Framework Convention on Sustainable Housing

Note by the secretariat

Summary

At its seventy-first session, in September 2010, the Committee on Housing and Land Management decided to establish a Working Group to explore the potential added value of a possible legally binding instrument addressing housing issues. The Working Group was not asked nor entitled to negotiate any legal agreement.

The Working Group consists of experts on housing-related issues, nominated by UNECE member States. It aims to analyse the advantages and drawbacks of a possible instrument and to produce findings to be included in a report and presented for consideration to the Committee during its seventy-second session in October 2011.

The first meeting of the Working Group was held in Geneva on 11-12 April 2011. As an outcome of the discussions, the members of the Working Group requested the secretariat to prepare a note for the second meeting to be held on 5-6 July 2011 providing information and examples of possible provisions that could be included in a framework convention addressing housing issues.

This non-paper is of an informal nature and presents examples which are based on usual practice within international agreements and only aims to facilitate the discussions on a possible framework convention to be held under *Item 3* of the provisional agenda for the second meeting of the Working Group (ECE/HBP/AC.1/2011/3). All the elements contained in this document are not the outcome of negotiation and shall not be negotiated during the second meeting of the Working Group. The examples presented simply serve as a reference for the discussions and will assist in understanding the nature and content of a possible framework convention. They do not represent a preferred approach. They are based on existing international environmental agreements. Alternative approaches exist and could be followed.

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Introduction

This non-paper is intended to provide Members of the Working Group with insights from other environmental instruments regarding the possible scope and substance of the provisions, which could be included in a framework convention addressing housing issues. In addition, the substantive ideas for the provisions are drawn entirely from the following documents:

- Report of the first meeting of the Working Group (ECE/HBP/AC.1/2011/2).
- Updated synthesis document compiling all the replies received to the questionnaire on a possible legally binding instrument on affordable, healthy and ecological housing in the UNECE region and the additional issues identified by the participants in the first Working Group meeting as to be included in a possible legal agreement.
- Background paper on Principles and Goals for Affordable, Healthy, and Ecological Housing, which was prepared for consideration by the UNECE member States at the seventy-first session of the Committee (ECE/HBP/2010/6).

It is equally important to emphasise that this note is only meant to provide a basis for the continuing informal discussions for the Working Group to be held under *Item 3* of the provisional agenda for the second meeting of the Working Group (ECE/HBP/AC.1/2011/3).

This non-paper is in no way intended to serve as the basis of the Committee's substantive negotiations, if indeed the Committee chooses to proceed with the negotiation of a framework convention. The scope of the potential Convention is a matter for the member States to decide.

It is useful to point out here that the overall positive experience with the five UNECE Environment Conventions demonstrates the importance, value and merit of framework conventions for solving important environmental problems in the UNECE region.¹ For example, all of the UNECE environment conventions have succeeded in promoting transboundary cooperation by developing institutional and legal frameworks. Many of these have also served as models for solving transboundary environmental issues in other regions and at the international level.

¹ The five UNECE Environment Conventions include the following: Convention on Long-range Transboundary Air Pollution; Convention on Environmental Impact Assessment in a Transboundary Context; Convention on the Protection and Use of Transboundary Watercourses and International Lakes; Convention on the Transboundary Effects of Industrial Accidents; and Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

The five framework conventions have not only been effective in solving the problems they were intended to address, but several of them are recognised as among the most authoritative and influential environmental conventions - having not only been replicated in other legally binding regional instruments but at the international level as well. Their positive regional contribution to the development of international environmental law is recognized by lawmakers around the globe.

Overview

In international environmental law and indeed with UNECE Environment Conventions, the primary mode of lawmaking is reflected in the framework convention/protocol approach. Typically a framework convention (whether the United Nations Framework Convention on Climate Change (UNFCCC), the United Nations Convention on Biological Diversity (UNCBD), or any of the five UNECE Environment conventions) will establish overarching objectives, principles, basic provisions and institutions. Protocols then build on the “parent” agreement through the elaboration of additional or more specific commitments and institutional arrangements. Protocols are optional and are only binding on those signatories to the convention who decide to also become signatories to the protocols.

A good example of the framework convention/protocol model at the international level is the UNFCCC, which sets as its objective as the stabilization of greenhouse gas emissions at a level that would prevent dangerous anthropogenic interference with the climate system. By contrast, the Kyoto Protocol establishes concrete targets for Annex 1 countries, coupled with a compliance regime.

Usually an instrument is considered to be legally binding when it contains concrete, measurable and enforceable obligations, which are accompanied by a compliance regime. Framework conventions provide frameworks for collective action, development and elaboration of norms, principles of cooperation and concrete standards, and shared sense of responsibility. They are a platform for the collaboration of state and non-state actors, and equalise benefits and burdens of policy responses. In general, the concrete commitments are contained in the protocols.

As illustration, at UNECE level, the primary aim of the Convention on Long-Range Transboundary Air Pollution (CLRTAP) is framed in general terms, notably to “reduce and prevent air pollution including long-range transboundary air pollution”. As with most of the other UNECE Environment Conventions, the primary commitment enshrined in the LRTAP Convention is to develop policies and strategies to fulfil the aims of the Convention. By contrast, the first of the CLRTAP’s protocols, the so-called Sulphur Protocol, establishes concrete and legally binding commitments, namely to reduce and maintain their annual sulphur emissions in accordance with the timing and levels specified in an annex to the Protocol. This is just the type of commitment which normally characterizes a legally binding commitment.

In conclusion, it is important to note that, at the UNECE level, each of the five environment conventions set out overarching and very general commitments, which are supported by protocols that establish concrete target-specific and time-bound obligations. It is, of course, up to the member States to determine the scope and substance of the commitments when the protocols are actually negotiated.

I. Role of the preamble in environmental conventions

1. Background

The preamble is the introductory section of an environmental convention. It frames the overarching issues for consideration as well as the underlying factors that contribute to the environmental concerns addressed by the convention. It also addresses the differences of views that remain unresolved. The preamble identifies the key general objectives of the convention, which may be expanded in a separate article in the text.

For instance, the following provides an overview of the common elements that are contained in the preambles of the five UNECE Environment Conventions and the three Rio Conventions (i.e. the Conventions on Climate Change, Biodiversity and Desertification):

- A statement that frames the cause and consequences of the main problem addressed in the instrument.
- A statement that directly links the overriding objective of the convention (e.g. protecting human beings and the environment against the effects of industrial accidents) with the interests of present and future generations.
- References recalling past international legal instruments of the United Nations (e.g. Stockholm Declaration, Rio Declaration, resolutions from the General Assembly, the World Charter for Nature, the European Charter on Environment and Health).
- Emphasis on the need to raise awareness among decision makers and the public.
- Emphasis on the need for international cooperation and information exchange and dialogue at all levels, in addition to public consultation, research and monitoring.

2. Examples of possible elements for the preamble of a framework convention addressing housing issues

The following provides examples of the type of issues that could be included in the preamble to a possible framework convention addressing housing issues. The issues are drawn entirely from the outcomes of the April 11-12 Working Group meeting as well as the responses provided by member States to the questionnaire that was prepared by the Secretariat. They are also based on examples from existing international environmental agreements.

This is by no means intended as an exhaustive list of the key issues that have been raised by member States. It is merely an indicative overview of the possible range of issues that could be included in a preamble.

Examples of elements that could be included in a preamble to a Framework Convention on housing:

- *Cognizant* of the need for all to have a decent standard of living and the essential role that access to sustainable housing plays in ensuring the achievement of this goal,
- *Aware* that sustainable housing is important for meeting the health, environment, safety and other needs of the growing UNECE population and for the socio-economic development and environmental sustainability of the region,
- *Determined* to develop actions at the regional and national level to provide all citizens with sustainable housing,
- *Noting* the long-term consequences that climate change will present for local economic growth and development and the need to reduce dependency on foreign energy sources,
- *Aware* of the general lack of information and knowledge regarding the negative impact of housing on the environment and the urgent need to develop scientific, technical, institutional and other capacities to provide the basic understanding upon which to plan and implement appropriate measures,
- *Taking note* that inadequate legislation, weak implementation of existing legislation and the lack of political will to reform outdated legislation are key obstacles to improving the accessibility of affordable housing,
- *Cognizant* that many housing problems are common across the UNECE region, although there are significant differences in housing regulations and standards, which could be usefully harmonized by unified international standards that address these problems,
- *Concerned* that a large part of the housing stock is degraded and that housing built illegally is often sub-standard and that a large percentage of old housing stock is in need of renovation,
- *Recognizing* that housing shortages are still experienced in the region and that housing markets are sometimes either underdeveloped or unbalanced, and housing choices are often limited or unaffordable,
- *Acknowledging* the stress placed on the housing market in some countries by increasing numbers of internally displaced persons and immigrants and the growing difficulties in meeting their housing needs,
- *Noting* that segregation and inadequate or inferior housing contribute to tensions, discrimination and social unrest throughout the region,
- *Recognizing* the global interdependence of real estate markets and the desirability of sharing the benefits arising from economic growth and development in the UNECE region,

- *Aware* that the carbon footprints, energy and water consumption from some dwellings remain too high and that in some parts of the UNECE region, construction practices are not resource-efficient and waste management systems remain inefficient and highly polluting, and that reducing energy intensity and increasing renewable energy in personal housing is important for the mitigation of dangerous climate change,
- *Aware* that a large proportion of homes in some parts of the region do not have access to safe drinking water supply and adequate sanitation,
- *Aware* that unaffordable, unhealthy and environmentally unsound housing could generate transboundary consequences throughout the entire UNECE region, such as increased migration and climate change,
- *Affirming* their willingness to strengthen cooperation in the UNECE region to develop appropriate national policies and by means of exchange of information, consultation, research and monitoring to develop national action to promote sustainable housing,
- *Acknowledging* that access to adequate financing and to relevant technologies can be expected to make a substantial difference in the abilities of some UNECE member States to address housing challenges,
- *Acknowledging* that substantial investments are required to promote sustainable housing and that a broad range of environmental, economic and social benefits from those investments could be expected in the longer term,
- *Cognizant* of the important activities of UNECE in addressing the numerous major housing challenges in the region and the important efforts that have been undertaken by member States,
- *Convinced* that a coherent regional policy framework is needed to increase the political visibility of the housing sector, provide guidance for the development of coherent national policies, strengthen the implementation of national efforts, and provide a platform for the exchange of best practices and for the mobilization of resources to address major housing challenges,
- *Noting* that promotion of sustainable housing will strengthen friendly relations and also enhance transboundary cooperation among UNECE member States,
- *Desiring* to enhance and complement existing international instruments that address housing-related issues, and
- *Determined* to promote sustainable housing for the benefit of present and future generations.

II. Role of the definitions in framework conventions

1. Background

The first article in most agreements is the definition section, outlining the key terms that relate to the key objectives of the instrument. All of the UNECE Conventions and most of the Multilateral Environment Agreements, especially the Convention on Biological Diversity (CBD), the United Nations Framework Convention on Climate Change (UNFCCC), and the United Nations Convention to Combat Desertification (UNCCD) contain a provision giving a number of definitions that explain substantive terms that are specific to the conventions, as well as generic terms such as the definitions of “Parties” and other actors relevant to the provisions of the convention in question.

Both the UNECE Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention) and the Convention on Environmental Impact Assessment in a Transboundary Context (the Espoo Convention) contain such generic definitions as “public authority” emphasising their role in environmental matters and distinguishing between the “public” in general and the “public concerned.” In the Espoo Convention, the public is defined in the same manner and the “competent authority” is defined as the body designated by a Party as responsible for performing the tasks covered by the Convention.

The key convention-specific definitions are always directly related to the substantive focus of the convention. Hence, the Aarhus Convention provides a definition for “environmental information” since one of the objectives of the convention is to ensure access to environmental information as a precondition to the right of all to live in a safe and healthy environment.

The Espoo Convention contains definitions that also relate specifically to the primary focus of the convention, namely the importance of environmental impact assessment for activities generating transboundary consequences. These include definitions for such terms as “environmental impact assessment,” “impact” and “transboundary impact.” The definitions section of the UNECE Convention on the Protection and Use of Transboundary Watercourses and International Lakes contains key terms such as “transboundary waters.”

The key terms that are addressed in the definitions section of the UN Convention on Biological Biodiversity include “biological diversity,” “biological resources,” “biotechnology,” “ecosystem,” “habitat” and “in-situ conditions”. The United Nations Framework Convention on Climate Change defines the key terms of “climate change,” “emissions,” and “greenhouse gases”. The United Nations Convention on Desertification includes such general terms as “drought” and “land”.

It is important to note that in international and regional legal agreements definitions are strategic issues, which are negotiated by member States at length. Definitions, in fact, can outline already the scope of the convention or its main objective.

2. Examples of possible elements to be reflected in a definition of “sustainable housing”

At the first meeting of the Working Group, several members emphasized the need for clear concepts and definitions as an important underpinning for the possible framework convention or other type of instrument that might be most effective in advancing the possible agreed goals and objectives. Some member States pointed to specific concerns with regard to the concept of affordable housing and suggested that instead of framing it as one of the key pillars to be addressed in the framework convention, it should be integrated into the healthy and ecological housing pillars. In addition, a wide range of innovations have been presented, including issues such as: universal design, stability of real estate markets, role of housing finance, in particular mortgage finance, and sustainable urban planning.

The elements provided below are examples based on the discussions of the first meeting, the “Synthesis of Member State Responses to the Questionnaire on a Possible Legally Binding Instrument on Affordable, Healthy and Ecological Housing”, as well as on the existing agreed definitions, including those widely used definitions in documents of the United Nations. These examples, providing a list of possible elements of a content of a definition on “Sustainable Housing”, are strictly not for the purpose of any negotiations. In accordance with the globally accepted vision on sustainability^{2 3}, a definition of sustainable housing should integrate social, economic and environmental dimensions. “*Human beings are at the centre of concerns for sustainable development*” and they are “*entitled to a healthy and productive life in harmony with nature*”⁴. In this regard, the objective should be to meet the increasing housing needs “*of the present without compromising the ability of future generations to meet their own needs*”⁵.

First, as regards the economic dimension of sustainability, issues such as accessibility, improved viability of housing areas, real estate market stability and mortgage housing finance could be included.

Second, as regards the social dimension, issues such as healthy and safety aspects as well as universal design and improvement of housing conditions could be included.

Third, as regards the environmental dimension, issues such as: energy efficiency, sustainable urban development, waste and water management should be taken into consideration.

Finally, it is important to note that the definition of “Sustainable Housing” will be a critical element within any possible negotiations of a framework convention on the topic, as it could define the main scope of the agreement.

² 2005 World Summit Outcome, General Assembly, United Nations.

³ Johannesburg Declaration on Sustainable Development.

⁴ Rio Declaration on Environment and Development.

⁵ World Commission on Environment and Development’s report *Our Common Future*, 1987.

III. Framing the objectives and fundamental principles

1. Background

Most environmental convention texts contain provisions that set out the broad policy objectives and fundamental principles of the convention that are intended to guide the actions of the parties.

Some of the environmental conventions have specific provisions that spell out the objectives explicitly, while others have integrated the objectives into the preamble or the general provisions. For example, article 1 of the United Nations Convention on Biological Diversity contains a very clearly articulated set of objectives:

*The objectives of this Convention, to be pursued in accordance with its relevant provisions, are the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies, taking into account all rights over those resources and to technologies, and by appropriate funding.*⁶

The UNECE Aarhus Convention also contains a separate provision (article 1) that describes the objectives explicitly:

*In order to contribute to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being, each Party shall guarantee the rights of access to information, public participation in decision-making, and access to justice in environmental matters in accordance with the provisions of this Convention*⁷.

The United Nations Framework Convention on Climate Change (UNFCCC) also contains very boldly worded objectives in article 2, which states:

*The ultimate objective of this Convention and any related legal instruments that the Conference of the Parties may adopt is to achieve, in accordance with the relevant provisions of the Convention, stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner*⁸.

⁶ United Nations Convention on Biological Biodiversity, Rio de Janeiro, 1992.

⁷ UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, Aarhus, 1998.

⁸ United Nations Framework Convention on Climate Change, Rio de Janeiro, 1992

The United Nations Convention on Desertification divides the article on objectives into two parts. The first part articulates the broad purpose of the convention, defines its geographical scope and emphasises the importance of international cooperation in this process. Article 2 states:

*The objective of this Convention 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, in the framework of an integrated approach which is consistent with Agenda 21, with a view to contributing to the achievement of sustainable development in affected areas*⁹.

The second part underlines the importance of an integrated approach and states:

*Achieving this objective will involve long-term integrated strategies that focus simultaneously, in affected areas, on improved productivity of land, and the rehabilitation, conservation and sustainable management of land and water resources, leading to improved living conditions, in particular at the community level*¹⁰.

The UNECE Convention on Environmental Impact Assessment in a Transboundary Context, on the other hand, does not include a separate article on the objectives of the convention. These are integrated into the article on the general provisions of the Convention, which emphasize the importance of measures to prevent and to respond to adverse transboundary environmental impacts.

This is also the case with the UNECE Convention on the Protection and Use of Transboundary Watercourses and International Lakes. Its general provisions article highlights the overall goal of the prevention and reduction of any transboundary impact in order to ensure the protection of transboundary waters.

As regards the provisions on principles in environmental conventions, if the conventions contain an explicit objectives provision, there is not always a separate article for the fundamental principles. This is the case with the Aarhus Convention.

By contrast, the United Nations Convention on Biological Diversity spells out one principle that underlies its general provisions. Article 3 states that:

*States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction*¹¹.

⁹ United Nations International Convention to Combat Desertification in Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa, Paris, 1994.

¹⁰ Idem.

¹¹ United Nations Convention on Biological Biodiversity, Rio de Janeiro, 1992.

Article 4 of the United Nations Framework Convention on Climate Change contains five separate principles that shall guide the actions of the Parties to allow them to achieve the objective of the Convention and the implementation of its provisions. These principles refer to the importance of protecting the climate through precautionary measures, the need for cooperation and promotion of sustainable development and principle of common but differentiated responsibilities.

The principles included in the United Nations Convention on Desertification are similar in scope and substance to the ones contained in the Convention on Climate Change.

The UNECE Convention on Long-Range Transboundary Air Pollution integrates its fundamental principles as a set of individual articles and also as a part of its general provisions.

As regards specific principles related to housing, it is important to note that the right to housing is recognised in a number of international human rights agreements. For example, article 25 of the Universal Declaration of Human Rights recognizes the right to housing as part of the right to an adequate standard of living. It states that:

Everyone has the right to a standard of living adequate for the health and wellbeing of himself and his family, including food, clothing, housing and medical care and necessary social services¹².

Article 11(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) also guarantees the right to housing as part of the right to an adequate standard of living. It states that:

The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.¹³

¹² Universal Declaration of Human Rights

¹³ International Covenant on Economic, Social and Cultural Rights

2. Examples of possible objectives and principles provisions in a framework convention addressing housing issues

The following provides an example of the possible scope of an objectives provision for the framework convention. It is drawn entirely from the comments made by members of the Working Group as well as the responses from member States to the secretariat questionnaire:

The objective of this Convention is to support member States in addressing the housing challenges in the UNECE region and in ensuring sustainable housing for the benefit of present and future generations, as a precondition to socio-economic development and environmental sustainability in the region.

The following text provides an example of the possible scope of a provision on fundamental principles. It is drawn from member States comments at the first meeting of the Working Group as well as from the secretariat Background note on “*Principles and Goals for Affordable, Healthy and Ecological Housing*” (ECE/HBP/2010/60):

- *Every citizen shall have access to housing and security of tenure, which are critical in ensuring individual well-being and socially cohesive societies as well as in supporting the functioning of local economies. An important element of accessibility is households’ financial capability to reside, without compromising their living standards, in a home that is suitable to their needs in terms of size, quality and location;*
- *Every citizen shall live in a healthy, safe and comfortable home. Healthy and safe housing protects residents from the spread of disease that may result from insufficient access to safe water, heat and sewerage and insufficient indoor air quality. It also protects residents from the impacts of natural disasters and climate change through compliance with sound safety standards, and as well, it supports special-need groups such as women, the elderly, children, the chronically ill, the disabled, refugees and the homeless; and*
- *Every citizen shall live in an ecologically sound and energy-efficient home. It is fundamental to link people’s access to housing with the protection and enhancement of the environment. This will entail addressing housing challenges such as the wasteful use of energy and water and the low use of renewable energy, in order to reduce levels of carbon emissions, material consumption and environmental pollution.*

IV. Framing the general provisions

1. Background

Most of the UNECE environment conventions contain an article entitled “General Provisions”, which contains substantive provisions and is usually located after the section on definitions. The “General Provisions” article enshrines the specific commitments that the parties will undertake in order to fulfil the objectives that are specific to the Convention in question.

For example, from outside the UNECE, is the United Nations Framework Convention on Climate Change which contains in article 4 an elaborate list of commitments that “[a]ll Parties, taking into account their common but differentiated responsibilities and their specific national and regional development priorities, objectives and circumstances, shall.....”¹⁴.

It should be noted that the commitments that are contained in the “General Provisions” article are typically closely related to the objectives and fundamental principles and are distinct from the commitments that usually appear further on in the Convention. The latter usually relate to cross-cutting issues that are common throughout UNECE Conventions, such as research, cooperation, technology transfer, monitoring, and the legalities related to entry into force of the Convention in question¹⁵.

The Convention on Transboundary Effects of Industrial Accidents provides a very helpful illustration of the dichotomy between these two categories of commitments. For example, the “General Provisions” contained in Article 3¹⁶ include several commitments that are specific to the Convention: preventing industrial accidents; developing policies and strategies to reduce the risks of industrial accidents; ensuring operator responsibility; taking legislative, regulatory and financial measures to prevent accidents.

2. Example of a possible article under “general provisions” in a framework convention addressing housing issues

Many different approaches can be taken in drafting the general provisions in a framework convention. The elements below reflect several of the key issues that were raised by member States in terms of the existing challenges, which the convention could address and the related role that could be played by member States under the umbrella of a new regional framework:

In accordance with their respective circumstances and capabilities , the Parties undertake to:

¹⁴ United Nations Framework Convention on Climate Change, Rio de Janeiro, 1992

¹⁵ see Sections VI and VI

¹⁶ UNECE Convention on the Transboundary Effects of Industrial Accidents, 1992.

- *Promote, as far as possible and as appropriate, the overall importance of sustainable housing .*
- *Integrate, as far as possible and as appropriate, sustainable housing concerns into relevant sectoral or cross-sectoral plans, programmes and policies.*
- *Adapt, as far as possible and as appropriate, existing strategies, plans or programmes which shall reflect the objectives and principles of this Convention.*
- *Develop and implement policies and strategies for promoting sustainable housing.*
- *Provide an enabling environment by strengthening, as appropriate, relevant existing legislation and, where it does not exist, by enacting new laws and establishing long-term policies and action programmes to promote sustainable housing.*
- *Take appropriate measures to monitor the effects of housing policies and to evaluate implementation on the basis of quantitative and qualitative measurements.*
- *Support local populations in developing and implementing preventive action through safe housing especially in areas where there is a high risk of natural disaster.*
- *Promote awareness and facilitate the participation of local populations and the private sector in efforts to generate innovative solutions for sustainable housing and to mobilize new and additional financial resources.*
- *The Contracting Parties, within the framework of the present Convention, shall by means of exchange of information, consultation, research and monitoring, develop without undue delay policies and strategies which shall serve as a means of addressing housing challenges in the region, taking into account efforts already made at national and international levels.*

V. Framing the general provisions providing policy guidance for national strategies

1. Background

Many members of the Working Group expressed the need for increased policy guidance to support their own efforts in addressing housing challenges and emphasized the value of harmonized standards which they could integrate into comprehensive housing strategies at the national level. In this regard, the United Nations Convention on Desertification is particularly instructive because it has the most detailed provisions, which outline the desired scope and substance of national strategies to combat desertification.

Article 8 of the Desertification Convention's Regional Annex for Africa¹⁷ outlines the content of the national action programmes and strategies. These include: measures to improve the economic environment; measures to conserve natural resources; measures to improve institutional organisation; measures to improve knowledge of desertification; measures to monitor and assess the effects of drought.

2. Example of possible article on national strategies in a framework convention addressing housing issues

The following provides an example of a possible provision that would outline the elements to be included in national strategies for housing. This sample paragraph is based on the United Nations Convention on Desertification¹⁸:

National strategies for housing shall be a central and integral part of a broader process of formulating national policies for sustainable housing. These strategies shall contain the following elements:

- *Designation of appropriate bodies responsible for the preparation, coordination and implementation of its national strategy.*
- *Measures for involving affected populations, including local communities, women, the elderly, disabled, in the elaboration, coordination and implementation of the national strategy with the cooperation of local authorities and relevant non-governmental organizations.*
- *Surveys on the national housing situation to assess the causes and consequences of unsustainable housing and to determine priority areas for action.*

¹⁷ United Nations International Convention to Combat Desertification in Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa, Paris, 1994.

¹⁸ United Nations International Convention to Combat Desertification in Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa, Paris, 1994.

- *Evaluation of, with the participation of affected populations, past and current efforts to address sustainable housing in order to address implementation.*
- *Approaches for integrating the economic, social and ecological dimensions of existing housing challenges.*

VI. Framing the provisions addressing cross-cutting issues

1. Background

All conventions contain provisions that address the cross-cutting issues that are common to all environmental instruments, such as financing, technology transfer, and cooperation. These issues reflect the incentive measures, which are aimed at countries in need of assistance to implement the substantive provisions of the convention in question.

Both the UNECE Convention on Transboundary Air Pollution and the Convention on the Protection and Use of Transboundary Watercourses emphasize the importance of coordinated monitoring of pollutants at planned intervals based on agreed procedures, as well as the use of the best available technology.

Both access to and transfer of technology is underlined and addressed in the UNECE Transboundary Watercourses Convention and the Transboundary Industrial Accidents Convention and the United Nations Desertification Convention. However, the scope differs dramatically. The UNECE Transboundary Watercourses Conventions simply outlines in article 6 that an exchange of information is to be carried out as quickly as possible. On the other hand, the Industrial Accidents Convention outlines the need for favourable conditions for cooperation to facilitate the transfer and exchange of technology through the promotion of: direct contact and cooperation, exchange of experience and information, as well as provision of technical assistance.

The United Nations Convention to Combat Desertification in article 18, on the other hand, outlines all of the previous conditions expressed in the Industrial Accidents Convention, but also specifies in more detail issues related to: utilizing existing information sharing systems, the specific needs of local populations and developing countries, utilizing financial assistance, joint ventures, creating market incentives, creating inventories, outlining use within the population, ensuring that local populations benefit directly, and finally, ensuring the improvement and adaptation of technologies.

2. Examples of possible provisions on cross-cutting issues in a framework convention addressing housing issues

Based on the foregoing language from the Biodiversity Convention, a possible provision on cross-cutting issues such as incentive measures, in the framework convention could include the following:

Each Contracting Party shall, as far as possible and as appropriate, adopt economically and socially sound measures that act as incentives for the promotion of sustainable housing¹⁹.

In addition, the following provide examples of provisions on cooperation and transfer of technology.

Example of a possible provision on cooperation:

Each Contracting Party shall promote technical and scientific cooperation with other Contracting Parties, in particular with countries with economies in transition, in implementing this Convention, inter alia, through the development and implementation of national policies.

Example of a possible provision on exchange of data, information and best practices:

The Contracting Parties shall, in their common interests, exchange available data and information on the environmental, social and economic impacts of unsustainable housing as well as best practices in the development of legislative, policy and regulatory approaches.

Example of a possible provision on access to and transfer of technology:

Each Contracting Party, recognizing that both access to and transfer of technology among Contracting Parties are essential elements for the attainment of the objectives of this Convention, undertakes subject to the provisions of this Article to provide and/or facilitate to other Contracting Parties access to and transfer of technologies that are relevant to the promotion of sustainable housing.

¹⁹ United Nations Convention on Biological Biodiversity, Rio de Janeiro, 1992.

VII. Provisions on matters related to the governance and administration of a framework convention

1. Background

All UNECE conventions as well as the international conventions contain provisions on matters related to the governance and administration of the convention such as the conduct of the meetings of the parties, the role of the secretariat, reporting, dispute settlement and the process for adopting protocols and amendments to the convention in question. These provisions are standard in scope and substance and vary only slightly from one instrument to the other. These matters are explained in further detail in this section.

2. Examples of possible provisions on matters related to the governance and administration of a framework convention addressing housing issues

- **Relationship with other international conventions**

Due to the complexity of the provisions of the United Nations and UNECE conventions, there is a clear necessity for underlining the mutual respect among the specific conventions in terms of their provisions and the issues they cover. The UN Convention on Biological Diversity²⁰, for instance, contains article 22 which outlines the relationship with other international conventions and the obligation for the Contracting Parties to respect relevant provisions of other related areas covered in different conventions.

This paragraph presents an example:

The provisions of this Convention shall not affect the rights and obligations of any Contracting Party deriving from any existing international agreement, except where the exercise of those rights and obligations would cause serious damage to the environment.

- **Meeting of the Parties**

The article on Meeting of the Parties (and/or Conference of the Parties) is a standard provision that identifies key issues related to the functioning of the meeting of the parties, which is the governing body of the convention. Article 10 in the UNECE Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters²¹, article 11 in the Convention on Environmental Impact Assessment in a Transboundary

²⁰ United Nations Convention on Biological Biodiversity, Rio de Janeiro, 1992.

²¹ UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, Aarhus, 1998.

Context²² and article 18 in the UNECE Convention on the Transboundary Effects of Industrial Accidents²³ all contain provisions that define the workings of the meeting of the parties or conference of the parties.

The following sample text is adapted for a possible convention on housing from these three conventions:

- *The representatives of the Contracting Parties shall, within the framework of the Senior Advisers to ECE Governments on Housing Issues, constitute the Meetings of the Parties of the present Convention, and shall meet at least annually in that capacity.*

- *The first meeting of the Parties shall be convened no later than one year after the date of entry into force of this Convention.*

- *The Parties shall hold an extraordinary meeting at such other times as may be deemed necessary by a meeting of the Parties, or at the written request of any Party, provided that, within six months of the request being communicated to them by the secretariat, it is supported by at least one third of the Parties.*

- *The Meeting of the Parties shall:*
 - *Review the implementation of the present Convention;*
 - *Establish, as appropriate, working groups to consider matters related to the implementation and development of the present Convention and to this end to prepare appropriate studies and other documents and to submit recommendations to be considered by the Meeting of the Parties/ Executive Body*
 - *Fulfil such other functions as may be appropriate under the provisions of the present Convention.*

²² UNECE Convention on Environmental Impact Assessment in a Transboundary Context, Espoo, 1991.

²³ UNECE Convention on the Transboundary Effects of Industrial Accidents, 1992.

- **Secretariat**

This provision defines the scope of the duties and responsibilities of the secretariat of the treaty body. Some conventions, depending upon the agreed modalities, also include provisions for funding of the secretariat. Article 12 in the UNECE Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters²⁴, article 13 in the Convention on Environmental Impact Assessment in a Transboundary Context²⁵ and article 20 in the Convention on the Transboundary Effects of Industrial Accidents²⁶ all contain provisions on the secretariat and provide the basis for the following sample provision:

The Executive Secretary of the Economic Commission for Europe shall carry out, for the Meeting of the Parties, the following secretariat functions:

- *To convene and prepare the meetings of the Meeting of the Parties;*
- *To transmit to the Contracting Parties reports and other information received in accordance with the provisions of the present Convention;*
- *To discharge the functions assigned by the Meeting of the Parties/Executive Body.*

- **Reporting**

Under most of the UNECE Conventions, Parties should report on their implementation activities in the form of national communications. For example, article 23 of the UNECE Convention on the Transboundary Effects of Industrial Accidents²⁷ calls upon Parties to report periodically on the implementation of the Convention.

The sample paragraph below is drawn from the above-mentioned article 23:

Each Contracting Party shall, at intervals to be determined by the Meeting of the Parties, present to the Meeting of the Parties reports on measures which it has taken for the implementation of the provisions of this Convention and their effectiveness in meeting the objectives of this Convention.

²⁴ UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, Aarhus, 1998.

²⁵ UNECE Convention on Environmental Impact Assessment in a Transboundary Context, Espoo, 1991.

²⁶ UNECE Convention on the Transboundary Effects of Industrial Accidents, 1992.

²⁷ UNECE Convention on the Transboundary Effects of Industrial Accidents, 1992.

- **Settlement of disputes**

International agreements include provision for the settlement of disputes among Parties, including processes for arbitration and conciliation.

Article 13 in the Convention on Long-range Transboundary Air Pollution²⁸ have provided a basis for the following sample paragraph for a convention on housing:

In the event of a dispute between Contracting Parties concerning the interpretation or application of this Convention, they shall seek a solution by negotiation or by any other method of dispute settlement acceptable to the parties to the dispute.

- **Adoption of protocols**

Protocols are adopted by the parties at the meeting or conference of the parties. There is a notice period for transmission of a draft text to the Parties.

The following sample paragraph has been based on article 28 of the United Nations Convention on Biological Diversity:²⁹

- *The Contracting Parties shall cooperate in the formulation and adoption of protocols to this Convention.*
- *Protocols shall be adopted at a meeting of the Meeting of the Parties.*
- *The text of any proposed protocol shall be communicated to the Contracting Parties by the secretariat at least six months before such a meeting.*

- **Amendments of the convention or protocols**

All UNECE conventions contain an article which sets the rules for possible amendments: article 14 in both Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters³⁰ and the Convention on Environmental Impact Assessment in a Transboundary Context,³¹ article 12 in the Convention on Long-range Transboundary Air Pollution³² and article 21 in the Convention on the Protection and Use of Transboundary Watercourses and International Lakes.³³

²⁸ UNECE Convention on Long-Range Transboundary Air Pollution, 1979.

²⁹ United Nations Convention on Biological Biodiversity, Rio de Janeiro, 1992.

³⁰ UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, Aarhus, 1998.

³¹ UNECE Convention on Environmental Impact Assessment in a Transboundary Context, Espoo, 1991.

³² UNECE Convention on Long-Range Transboundary Air Pollution, 1979.

³³ UNECE Convention on the Protection and Use of Transboundary Watercourses and International Lakes, Helsinki, 1992.

The following paragraph is a typical example of such provision:

Any Party may propose amendments to this Convention.

Proposals for amendments to this Convention shall be considered at a meeting of the Parties.

The text of proposed amendments shall be submitted in writing to the Executive Secretary of the Economic Commission for Europe, who shall communicate them to all Contracting Parties. The Executive Body shall discuss proposed amendments at its next annual meeting provided that such proposals have been circulated by the Executive Secretary of the Economic Commission for Europe to the Contracting Parties at least ninety days in advance. An amendment to the present Convention shall be adopted by consensus of the representatives of the Parties to this Convention present at a meeting of the Parties, and shall enter into force for the Parties to the Convention which have accepted it on the ninetieth day after the date on which two thirds of those Parties have deposited with the Depository their instruments of acceptance of the amendment. The amendment shall enter into force for any other Party on the ninetieth day after the date on which that Party deposits its instrument of acceptance of the amendment.

- **Adoption and amendment of annexes**

The United Nations Convention on Biological Diversity³⁴ contains article 30 which elaborates on the conditions under which new annexes can be adopted. It refers to the article on Amendments of the Convention or Protocols (article 29) as the procedures are similar in nature. The article also outlines the procedural steps for the adoption of annexes and the legal implications of such adoption in the context of the entering of force of the convention as a whole.

- **Right to vote**

The following example is based on usual practice within UNECE conventions such as article 12 of the Convention on Environmental Impact Assessment in a Transboundary Context³⁵ or article 11 of the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters³⁶.

Each Party to this Convention shall have one vote.

Except as provided for in paragraph ... of this article, regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States which are Parties to this Convention. Such organizations shall not exercise their right to vote if their member States exercise theirs, and vice versa.

³⁴ United Nations Convention on Biological Biodiversity, Rio de Janeiro, 1992.

³⁵ UNECE Convention on Environmental Impact Assessment in a Transboundary Context, Espoo, 1991.

³⁶ UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, Aarhus, 1998.

- **Signature**

An international agreement is usually open for signature at an agreed location and time. States usually have a limited period of time to become a signatory. An international agreement could also remain open for signature indefinitely. This is specified in the agreement. For instance, as stated in article 33 of the Desertification Convention,³⁷ the agreement was open for signature for one year after adoption. This provision usually also includes a statement the parties invited to enter into the treaty.

The paragraph below presents an example based on usual practice within UNECE environment conventions:

This Convention shall be open for signature atfromto inclusive, and thereafter at United Nations Headquarters in New York until, by States members of the Economic Commission for Europe, as well as States having consultative status with the Economic Commission for Europe pursuant to paragraph 8 of Economic and Social Council resolution 36 (IV) of 28 March 1947, and by regional economic integration organizations constituted by sovereign States members of the Economic Commission for Europe to which their member States have transferred competence in respect of matters governed by this Convention, including the competence to enter into treaties in respect of these matters.

- **Depositary**

The Depositary is an organization trusted by the parties that has been given the competence to monitor and record amendments, changes, provisions, and any party communication regarding the convention. It is therefore crucial to appoint a Depositary to keep a single official log these actions. All that is required is an article which states who the Depositary will be:

The _____ shall act as the Depositary of this Convention.

- **Ratification**

Ratification occurs when the signature party formally accepts the convention. Ratification can apply to the convention as a whole or to individual amendments. A designated number of parties must ratify a convention or an amendment before it enters into force. The signature party must have the authority to enter into a legally binding convention. It is therefore necessary to state the number of ratification parties needed in order for the convention or amendment to enter into force. Many conventions have an article dedicated to Ratification which details:

- When the convention is open to ratification.
- What the parties are bound to upon ratifying the convention.
- What responsibilities the parties have towards the ratification process.

³⁷ United Nations International Convention to Combat Desertification in Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa, Paris, 1994.

The paragraphs, based on article 25 “Ratification, Acceptance, Approval and Accession” of the Convention on the Protection and Use of Transboundary Watercourses and International Lakes provide a basis for the sample provision on ratification:

1. *This Convention shall be subject to ratification, acceptance or approval by _____.*
2. *This Convention shall be open for accession by the States and organizations referred to in the previous article.*
3. *Any organization referred to in the previous article which becomes a Party to this Convention... shall be bound by all the obligations under this Convention.*
4. *In their instruments of ratification, acceptance, approval or accession, the ...organizations referred to in the previous article shall declare the extent of their competence with respect to the matters governed by this Convention. These organizations shall also inform the Depositary of any substantial modification to the extent of their competence.*

- **Acceptance**

Acceptance is used instead of ratification when, at a national level, constitutional law does not require an agreement to be ratified by the head of State. Acceptance has the same legal effect as ratification. Acceptance is included in the same articles as ratification.

- **Approval and accession**

Approval and accession both have the same legal effect as ratification. Approval is when, at a national level, constitutional law does not require an international agreement to be ratified by the head of State. Accession is when a State becomes a Party to an international agreement already negotiated and closed for signature. Approval and accession are included in the same articles as ratification.

- **Entry Into Force**

When a convention enters into force, it becomes legally binding upon the parties that have ratified, accepted, approved or acceded to it. An entry into force provision must clearly stipulate the number of parties that must ratify the convention before it enters into force.

The example below is based on article 18, paragraph 1, of the Convention on Environmental Impact Assessment³⁸:

This Convention shall enter into force on the... after the date of deposit of the..., acceptance, approval or accession.

³⁸ UNECE Convention on Environmental Impact Assessment in a Transboundary Context, Espoo, 1991.

- **Withdrawal**

Environmental conventions may include provisions which allow a party to withdraw from the convention under certain circumstances.

A provision which allows for withdrawal can be adapted from article 17 of the Convention on Long Range Transboundary Air Pollution:

At any time ...[designated time] from the date on which the present Convention has come into force with respect to a Contracting Party, that Contracting Party may withdraw from the Convention by giving written notification to the depositary. Any such withdrawal shall take effect on the... [designated day] after the date of its receipt by the depositary³⁹.

- **Authentic texts**

Authentic texts are texts which are referenced in the convention and are usually written in another language. They have equal legal validity and authenticity to the convention itself.

An example of a reference to an authentic text is taken from article 20 of the Convention on Long-Range Transboundary Air Pollution, which states:

The original of this Convention, of which the English, French and Russian texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Convention.

DONE at Espoo (Finland), this twenty-fifth day of February one thousand nine hundred and ninety-one⁴⁰.

³⁹ UNECE Convention on Long-Range Transboundary Air Pollution, 1979

⁴⁰ UNECE Convention on Long-Range Transboundary Air Pollution, 1979.