

UNECE AIR CONVENTION

Gothenburg Protocol Review

Thematic session - EB December 2022

Review of flexibility provisions to facilitate ratification and implementation (official document ECE/EB.AIR/2022/6)

Barriers to ratification and implementation, and potential solutions (informal document no.2)

Review of flexibilities

EB Decision 2019/4, initiating the review of the amended Gothenburg Protocol, requests a review of the flexibility provisions to be considered in the review of the Gothenburg Protocol. This covers

- Current flexibilities, including deadlines, timescales
- Further flexibilities and new approaches to overcome barriers

EB decision 2020/2, planning the review of the amended Gothenburg Protocol, requests the consideration of the questions set out in annex I to the preparatory review document (document WG.5/2020/3 on the preparations for the review)

- Question 6.1(a): *“Are current flexibility provisions adequate and/or effective for ratification and implementation?”*
- Question 6.1(b): *“What new flexibilities and/or approaches would potentially help non-Parties to move towards ratification and implementation?”*
- Question 6.1(c): *“What are other options for achieving emission reductions (in lieu of technical annexes)?”*

Review of flexibilities

Present formal document ECE/EB.AIR/2022/6 on the review of flexibilities is presented for consideration by the Executive Body at its forty-second session as part of the broader review of the Protocol (*see item 5 on agenda for EB42*).

It builds on following previous documents

- Informal document to the 59th session of WGSR, May 2021
- Formal document to the 60th session of WGSR, April 2022

Present final version of the document has been updated based on the comments made by the Working Group at its sixtieth session and those submitted by delegations after the session

Review of flexibilities

The document on the review of flexibilities is structured as follows

Summary for policymakers

- I. Introduction
- II. Main flexibility provisions
- III. Responses to the questionnaire to support the review of flexibilities
- IV. Views of non-Parties to the present Gothenburg Protocol
- V. Responses to the questions in Annex I to the preparatory document
- VI. Conclusions
- VII. Possible options for next steps
- VIII. Background information and references
- Annex I Overview of main flexibility provisions
- Annex II Review of main flexibility provisions

Review of flexibilities

Aim of the document on the review of flexibilities

- Provide an overview and assessment of the current flexibility provisions available in the amended Gothenburg Protocol.
- Provide initial views on possible new flexibilities and/or approaches.
- Provide input to the report on the review of the Gothenburg Protocol.
- Provide support to the discussions at the thematic session on barriers to ratification and implementation of the Gothenburg Protocol, scheduled for the forty-second session of the Executive Body

Review of flexibilities

Overview of main flexibility provisions of amended Protocol

- Flexibility is considered in a broad sense and different perspectives
- Flexibility provisions vary in type, scope and impact
- Some flexibility provisions address all parties
- Some flexibility provisions address non-parties to increase ratification
- Some flexibility provisions were already available in the original GP
- Several new flexibility provisions were added to the amended GP, i.a.
 - flexible transitional arrangements
 - reporting of limited emission inventories
 - longer timescales of application of limit values
 - use of relative emission reduction targets and adjustment procedure

Review of flexibilities

Some key findings of the review of the main flexibility provisions

- The new flexibility mechanisms introduced to further ratifications have not been used so far
- Several of these new flexibility mechanisms (flexible arrangements, limited reporting) have already expired
- Alternatives to or derogations from the mandatory limit values are either not used or not reported
- Lack of reporting on the use of flexibility provisions makes monitoring or enforcement difficult
- The adjustment procedure is a mechanism used by many, but also resource intensive
- There is overall insufficient information available on the use of flexibilities

Review of flexibilities

Review of received responses to the Questionnaire

- 10 responses received: 8 Parties to GP, 2 non-Parties to GP
- Additional 1 response from non-Party to Convention
- Compilation of responses: see informal document to WGSR-60
- Some key findings
 - Half of respondents indicated different flexibilities are needed
 - Specific flexibility provisions for non-Parties not considered useful by 2 non-Parties
 - Only 2 Parties consider some of current flexibility provisions key for ratification
 - Flexibility provisions generally considered useful; mixed response by non-Parties
 - 2 non-Parties identified barriers not sufficiently addressed

Review of flexibilities

Initial views for new mechanisms or approaches to enhance ratification

- A bottom-up approach for current non-Parties
- Automatic incorporation of relevant limit values in the technical annexes upon ratification by current non-Parties
- A tiered approach over time or a staged approach, prioritising key categories
- Sections in the TA specifically dedicated to current non-Parties
- Revise the amended Gothenburg Protocol in a way that allows piecemeal (incremental) ratifications of bundled amendments
- A new instrument that includes sector-based approaches and commitments that address multiple pollutants
- Make technical annexes non-mandatory (shift from enforcing to facilitating)
- A framework protocol followed by implementing decisions

Review of flexibilities

Key conclusions of the review

- To date, the current flexibility provisions have not proven adequate and/or effective for further ratifications
- New flexibilities introduced to increase ratification have not met expectations
- The Gothenburg Protocol and (some of) its eleven technical annexes are complicated and could be too demanding for (some of the) non-Parties
- It is still too early to draw definite conclusions on usefulness and effectiveness of (some of) the flexibility provisions
- Discussion of options for addressing flexibility and/or new approaches in the future is needed after the review process.
 - Improvements to current flexibility provisions under amended GP
 - New options and/or new/different flexibilities for potential revision of amended GP

Barriers and solutions

Informal document on barriers to Rat and Imp, and solutions

- As recommended by the GPG in the document on the review of the flexibility provisions an informal document has been prepared with information on barriers to ratification and implementation, and solutions
- With the aim
 - to be presented for consideration at the thematic session on flexibilities and barriers
 - to serve as a basis for non-Parties to identify and communicate their specific protocol-related barriers and their suggestions for solutions
- If deemed appropriate, this document can be updated based on the discussions during the thematic session, answers received to the questionnaire and follow-up exchanges in 2023-2024

Barriers and solutions

The document on barriers and solutions is structured as follows

Introduction

- I. Overview of potential barriers
- II. Linking potential solutions to barriers
- III. Benefits, risks and drawbacks of solutions
- IV. Initial key findings and possible next steps
- V. Reference documents

Barriers and solutions

Categorisation of potential barriers

1. Political barriers
2. Financial and economic barriers
3. Institutional barriers
4. Regulatory barriers
5. Capacity and knowledge barriers
6. Technical and protocol design related barriers

Barriers and solutions

Brief overview of potential barriers and solutions

1. Political barriers and solutions

- Low political priority, will and awareness
- Low political profile of the Convention
- Domestic and/or geopolitical instability

- Continue awareness raising (WP)
- Continue communication activities (WP)
- Explore new political entry points (health)
- Explore potential of international projects

2. Financial and economic barriers and solutions

- Unfavourable economic conditions
- Lack of resources, Long-term uncertainty
- High abatement / retrofitting costs
- Lower average incomes

- Funding from financial institutions (WB)
- Continue fundraising efforts
- Raise awareness of economic rationale for taking action, prioritize action (CE)

Barriers and solutions

Brief overview of potential barriers and solutions

3. Institutional barriers and solutions

- Weak institutions, institutional instability
- Insufficient coordination / clear roles
- Insufficient exchange of information

- Analyse institutional / coordination gaps
- Identify needs
- Strengthen/improve institutional capacities (with support from others)

4. Regulatory barriers and solutions

- Outdated /inadequate legislation on AQ
- Inadequate/lack of legal frameworks (BAT based permits, reporting, monitoring, ...)
- Need to develop series of regulations

- Continue capacity building (WP)
- Gap analysis of i.a. legal frameworks
- Develop national action plans
- Strengthen capacity to adapt legislation

Barriers and solutions

Brief overview of potential barriers and solutions

5. Capacity and knowledge barriers and solutions

- Weak administrative capacity in AQ issues
- Insufficient staff, turnover of staff
- Limited knowledge / experience in CE analysis, development NAPs, C&B ...

- Continue related capacity building(WP)
- Continue cooperation with TFTEI, TFIAM...
- Continue cooperation with other Parties
- Improve understanding (e-learning...)

6. Technical and protocol related barriers and solutions

- Incomplete/inaccurate EI and EP
- Lack of reliable statistical data for EI
- Complexity and large number of protocol requirements, not adapted to economies
- Retrofitting is barrier, flex insufficient

- See possible options proposed in flexibility review document
- Increase financial support (new/retrofit)
- Explore other drivers than 'ratification'

Barriers and solutions

Benefits, risks and drawbacks of solutions

- Striving for more ratifications could decrease ambition, levelling down the standard of ambition
- Slowest Party dictating the pace of progress
- Further disconnection from current non-Parties when pursuing more ambition with no additional flexibility
- Undue pressure on level playing field, more divergence in obligations for different Parties
- Undue pressure on consistency between obligations, on integrated approach to achieve multiple goals
- More legal and procedural complexity
- More administrative burden (additional reporting, ...)
- Creation of loopholes or escape routes
- Ratification of Protocol amendments take a long time with no guarantee on success to attract more Parties
- Voluntary action can kick off immediately but cannot be enforced, with unclear end result
- Solutions like support for capacity building, cooperation and outreach are slow, resource intensive and require additional financial/human resources

Barriers and solutions

Initial key findings and possible options for consideration

- EECCA and Western Balkan countries have made real progress towards ratification and implementation
- Thanks to the support of many
- But more needs to be done.
Non-Parties are moving at different speeds and have different needs
- Following tracks can be considered in addressing protocol-related barriers
 - Pursue solutions without revising or modifying the AGP (improvements, capacity building ...)
 - Pursue solutions within the framework of the AGP (expedited amendment procedure)
 - Pursue solutions within an overall revision of the AGP (classic amendment procedure)
 - Pursue solutions within a new approach (mandatory or voluntary), focus on implementation
 - Pursue a combination of approaches

Next steps

Next steps on flexibilities and barriers in 2022

- Report of thematic session (to be produced after EB session)
- Outcome of thematic session to be considered in next steps post-review
- Update of informal document on barriers and solutions if and when deemed appropriate
- See also suggestions for next steps and further work in in Barriers Document
 - Review current progress of non-Parties towards ratification/implementation
 - Review current work on capacity building, awareness raising, communication
 - Review mandates of TF
 - Update 2012 needs assessment
 - Develop vision and separate strategy for non-Parties